

1/52/2017

पूर्वोत्तर रेलवे

कार्यालय
महाप्रबन्धक (कार्मिक)
गोरखपुर।

352

ई0पी0सं0-02-6
कमांक-52/2017
सं0 का/227/2/भाग-15/चार

दिनांक 24-03-2017
04/4/17

सचिव/महाप्रबन्धक,
सचिव/अपर महाप्रबन्धक,
सनी विभागाध्यक्ष,
सभी मण्डल रेल प्रबन्धक,
सभी कार्मिक अधिकारी,
सनी मुख्य कारखाना प्रबन्धक,
सभी अतिरिक्त मण्डलाधिकारी/स्थापना,
पूर्वोत्तर रेलवे।

8/4/17
34/4/17

विषय:-ओ ए सं0 330/00213/2017 कैट/एएलडी सेवारास पुत्र लोहाराम
बनाम यूनियन आफ इण्डिया।

महाप्रबन्धक/विधि, पूर्वोत्तर रेलवे, गोरखपुर का पत्र सं0सी/78/कैट/424/
आर आर सी/एएलडी/017 दिनांक 24.03.2017 के साथ माननीय कैट इलाहाबाद
द्वारा दिए गये निर्णय/आदेश की छायाप्रति संलग्न कर सूचना नार्मलरी एवं
आवश्यक कार्यवाही हेतु प्रेषित की जा रही है।

संलग्नक/ग्रथोपरि

24.03.17
(ए0 के0 सिड)
उपप्रकाधि/अराण
कृते महाप्रबन्धक/कार्मिक

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- महामंत्री/एन.ई.रेलवे मजदूर यूनियन/गोरखपुर - 40 प्रतियों में।
- 2- महामंत्री/प्रमोटी अधिकारी संघ/पूतरे/गोरखपुर - 02 प्रतियों में।
- 3- महामंत्री/रेलवे एसोसिएशन/पूतरे/गोरखपुर - 02 प्रतियों में।
- 4- महामंत्री/एससी/एसटी एवं ओबीसी एसोसिएशन/गोरखपुर - 02 प्रतियों में।
- 5- मुकार्याधी/एमपीपी को वेबसाइट पर अपलोड हेतु - 01 प्रति में।

24.03.17
कृते महाप्रबन्धक/कार्मिक

Letter

संलग्नक नं. १३३०/००२१३/२०१७

संलग्नक नं. १३३०/००२१३/२०१७

2/5/2017

HA

C/78/CAT/429/RAC/ALD/17

24/3/17

संलग्नक नं. १३३०/००२१३/२०१७

GM/Law

GRP

The O.S./Ruling
N.E.Rly/GRP

OA No. 330/00213/2017 CAT/ALD
Sewa Ram S/O in Total Ram in UOI

The Subject OA has been dismissed on the ground of limitation as well as on merits vide order dt. 3/3/2017 passed by the Honble CAT/ALD in the Subject Case.

As the said judgment/order is a good judgment passed in favour of Rly. Admin., a copy of the same is enclosed herewith. The competent authority has directed to circulate the same to all the HODs/PHODs and the DRMs of all the three divisions at the earliest. Copy of the noting (N/3) containing direction of the Chairman/RAC is also enclosed herewith.

In view of the above, you are requested to please arrange to circulate the CAT order dt. 3/3/17 to all the PHODs/HODs and DRMs/ADRs at the earliest please.

This may pl. be treated as Most Urgent.

- OA:-1. Copy of order dt. 3.3.17
2. Noting N/3 with direction of Chairman/RAC

24/3/17
GM/Law

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH,
ALLAHABAD

O. A. No.330/00213/2017

This the 3rd day of March, 2017

Hon'ble Mr. Justice Dinesh Gupta, Member (J)

Hon'ble Ms. Nita Chowdhury, Member (A)

Sewa Ram son of Sri Tota Ram resident of village and Post
Serauri, District- Pilibhit Age 34 years

..... Applicant

By Advocate : Sri K.C. Vishwakarma

Versus

1. Union of India through Principal Secretary, Ministry of Railway, New Delhi.
2. Chairman, Railway Recruitment Cell, Northern Eastern Railway, CCM, Annexe Building, Railway Road No. 14, Gorakhpur.
3. Deputy Chief Personnel Officer, Railway Recruitment Cell, Northern Eastern Railway, CCM Annexe Building, Railway Road No. 14, Gorakhpur.
4. Assistant Personnel Officer, Railway Recruitment Cell, Northern Eastern Railway, CCM Annexe Building, Railway Road No. 14, Gorakhpur.

..... Respondents

By Advocate : Sri Rishi Kant Tripathi

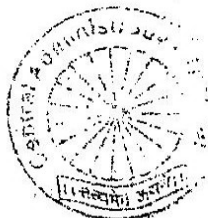
ORDER

Delivered by Hon'ble Mr. Justice Dinesh Gupta, Member (J)

The applicant has filed this OA seeking the following reliefs:-

- i) to issue a order or direction in the nature of mandamus directing the respondent authority to conclude the recruitment process for Group D post as per Employment Information No. NER/RRC/D/02/2010 and issue appointment letter in favour of applicant.
- ii) to pass such other and further order which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- iii) award the cost of the application to the applicant.

2. The brief facts emerges from the O.A. are that there was about 4708 vacancies of Group D post lying vacant in the Eastern



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Railway for which applications were invited through the advertisement/ notification in daily newspaper. The applicant applied for the post under other Backward class (OBC) category. Call letter was issued to the applicant for appearing in the examination on the date fixed i.e. 6.5.2012 as well as 17.10.2012. Applicant appeared in the written examination and result of the selected candidates was declared. The applicant as per the written examination was declared successful. Applicant was further communicated vide letter dated 20.12.2012 for document verification and medical examination prior to final selection. The applicant was also communicated vide letter dated 20.12.2012 through Assistant Commercial Officer, Railway Recruitment Cell, Gorakhpur to deposit the requisite fee for medical examination. The applicant put their presence before the authority for medical examination on 24.12.2012. Medical officer reported unfit in AYE two fit for AYE-3 and below C glass vide certificate dated 26.12.2012. In spite of lapse of sufficient period after completing the formalities, nothing has been communicated to the applicant in regard to selection. Applicant sought information under RTI but the respondents have nothing communicated in this regard.



3. Heard learned counsel for applicant Sri K.C.Vishwakarma and Sri Rishi Kant Tripathi for respondents at the admission stage.

4. Applicant reiterated the facts as stated in the O.A. and submitted that since the applicant was found successful and suitable in the written examination as well as physical test and his name was included in the successful candidate after physical efficiency test and medical Officer also found fit for AYE after below C glass, as such he deserves for appointment and authority are duty bound to conclude the recruitment process.

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5. Counsel for respondents submitted that applicant declared successful in written examination but Medical Officer reported the applicant unfit in AYE two fit for AYE-3 and below C glass vide certificate dated 26.12.2012. As such he cannot be given appointment as he is found unfit in the medical examination.

6. I am unable to accept the contentions raised by the learned counsel for the applicant.

7. The applicant was declared medically unfit as per certificate issued by the Medical Officer on 26.12.2012 and the present O.A. is preferred by the applicant in the year 2017 without explaining any delay for approaching this Tribunal earlier. The contention of the applicant that he has approached the authorities several times but has not produced any material on record in this regard.

8. Limitation of filing of O.A. is provided under Section 21 of the AT Act. Applicant has filed the present O.A. beyond the period of limitation and he has also not moved any application for condonation of delay.

9. So far as legal position regarding the limitation is concerned, the Hon'ble Supreme Court in the case of Ramesh Chandra Sharma v. Udham Singh Kamal reported in 2000(2) SLJ SC 89 observed as under:-

"21. Limitation - (1) A tribunal shall not admit an application:

(a) In a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date of which such final order has been made;

(b) In a case where an appeal or representation such as is mention in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) xxx

xxx

xxx



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(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal, that he had sufficient cause for not making the application within such period."

Relying upon the aforesaid provisions, it was contended on behalf of the appellants that the O.A. filed by the first respondent Udham Singh Kamal was barred by limitation. No application for condonation of delay was filed. In the absence of any application under sub-Section (3) of Section 21 praying for condonation of delay, the Tribunal had no jurisdiction to admit and dispose of O.A. on merits. It was, therefore, contended that the Tribunal has totally overlooked the statutory provision contained in Section 21 of the Act and, therefore, impugned order be set aside."

10. The Hon'ble Apex Court in the case of **Bhop Singh Vs. Union of India** and others reported in (1992) 3 SCC 136, has been pleased to observe as under:-

"Inordinate and unexplained delay or latches is by itself a ground to refuse relief to the petitioner irrespective of the merit of his claim."

11. The Original Application filed by the applicant is full of latches and delay, as such deserves to be dismissed on the ground of limitation alone.

12. As far as merit is concerned, since the applicant was declared unfit in medical examination as per certificate issued by the Medical Officer, hence no relief can be granted to the applicant.

13. In view of the above, O.A. is dismissed on the ground of limitation as well as on merits. No order as to costs.



sd/-
H.M. CERTIFIED TRUE COPY
Dated 08.03.2017

sd/-
J.M.

अनुभाग अधिकारी
Section Officer
केन्द्रीय प्रशासनिक अधिकार न्यायालय
प्रसादगढ़
Central Administrative Tribunal,
Allahabad Bench, Allahabad