

2025:PHHC:101158-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

204

CWP-14435-2018 (O&M)

Date of decision: 06.08.2025

Ram Parvesh Yadav

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh Bench and others

...Respondents

204-2

CWP-15860-2018 (O&M)

Union of India

...Petitioner

Versus

Krishan Gopal Gupta and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR.JUSTICE VIKAS SURI**

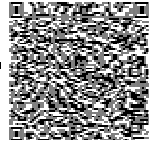
Present: Mr. Dhiraj Chawla, Advocate for the petitioner
in CWP-14435-2018.

Mr. Ashish Rawal, Advocate
for the petitioner in CWP No.15860 of 2018 and
for UOI in CWP No.14435 of 2018.

Mr. Shailendra Sharma, Advocate
for respondent No.2 in CWP No.14435 of 2018 and
for respondent No.1 in CWP No.15860 of 2018.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this order, two writ petitions, details of which have been mentioned above, are being decided together as both the petitions involve the same question of law on similar facts. In the present petitions, challenge is to order dated 28.11.2017 (Annexure P-6) passed by the



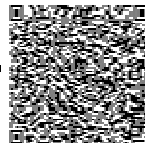
Central Administrative Tribunal, Chandigarh Bench dated 28.11.2017 (Annexure P-6).

2. Vide the impugned order, the Central Administrative Tribunal has quashed the selection made by the Railways to the post of Staff & Welfare Inspector in pursuance to the advertisement dated 12.10.2011 (Annexure A-2), copy of which is placed at Page 72 of the paper book.

3. For sake of convenience, facts are being drawn from CWP-14435-2018. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

4. By the advertisement dated 12.10.2011 (Annexure A-2), which was circulated by the Divisional Personnel Officer, Northern Railway, Ambala, to the Ambala Division, the Chief Works Manager/Jagadhri Workshop, Deputy Chief Material Manager, Store Depot, Jagadhri Workshop, Works Manager/ Kalka, Registrar, Railway Claim Tribunal, Chandigarh, were asked that the eligible staff working under the above mentioned offices, who have their lien maintained in the Ambala Division or under the control of the particular division can apply for the two posts of Staff & Welfare Inspectors, which were to be filled from the general category. The eligibility conditions were mentioned in the advertisement itself. The petitioner herein, namely Ram Parvesh Yadav who was working at Ambala Division as well as the respondent No.2 Krishan Gopal Gupta, who was working at Jagadhri Workshop, which also comes under the Ambala Division, applied for the post in question.

5. Keeping in view the terms of the advertisement, the selection



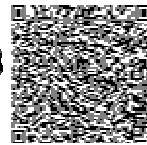
was to consist of written test and the scrutiny of Annual Confidential Record as well as service record of the candidates who applied for the post in question. After conducting the said process, a merit list was prepared by the selection authority wherein, Ram Parvesh Yadav having secured 66 marks was placed at Serial No.2 in the merit list and respondent No.2 Krishan Gopal Gupta, was placed at Serial No.7 with 59 marks.

6. Keeping in view the merit list prepared, immediately thereupon, the posts were filled up by appointing two persons from the merit list including the petitioner Ram Parvesh Yadav.

7. After a period of approximately two years of the selection, the respondent No.2 filed an Original Application (OA) challenging the selection process for the post in question and appointment of the petitioner herein on the ground that the selection process has been conducted in violation of the instructions issued by the Railway Board dated 25.04.1997 (Annexure A-5) as, where the post of Welfare Inspector has been decentralized, the said post has to be filled unit wise and only the employees working at Jagadhri Workshop were to be treated eligible.

8. By the impugned order dated 28.11.2017, the said prayer of the respondent No.2 before the Tribunal was accepted and the selection of the two candidates including the petitioner on the post in question was set aside and the matter was remanded back for fresh appointment from the eligible candidates as per the Railway Board instructions dated 25.04.1997 (Annexure A-5), which is under challenge in the present petitions.

9. The selected candidates filed the review petition which also



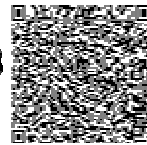
came to be dismissed on 05.02.2018 (Annexure P-8), which order has also been impugned in the present petition.

10. Learned counsel appearing on behalf of the Union of India argues that while passing the impugned order dated 28.11.2017, the Tribunal has missed certain facts as well as the question of limitation as provided under the Administrative Tribunals Act, 1985 (for short '1985 Act') so as to initiate proceedings before the Tribunal in case anyone is aggrieved.

11. Learned counsel for the petitioner-Ram Parvesh Yadav submits that in case the respondent No.2 was aggrieved against the terms of the advertisement dated 12.10.2011, he could have challenged the same within a period of one year of the issuance of the same whereas, even when the Original Application was filed in the year 2015, the said advertisement has not been challenged. Hence, without there being a challenge to the terms of advertisement, the selection made on the basis of the terms and conditions of the advertisement could not have been set aside and that too after a period of more than three years of the issuance of the said advertisement.

12. Learned counsel appearing on behalf of the petitioner-Ram Parvesh Yadav further submits that the selection list which has been impugned was issued in the month of November 2012, though wrongly mentioned as 16.09.2013 in the Original Application, the same could have also been impugned within a period of one year keeping in view the limitation period which was not done by the respondent No.2.

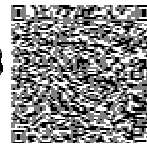
13. Learned counsel for the petitioner argues that without ascertaining as to whether Original Application filed by respondent No.2-



applicant was within the limitation as provided under Section 21 of 1985 Act, the relief has been granted which was beyond the jurisdiction of the Tribunal. Learned counsel for the petitioner further argues that the instructions dated 25.04.1997 has been made applicable upon the Ambala Division, where the two posts of Staff & Welfare Inspector existed and were to be filled up and nothing had come on record that the posts which existed in the Ambala Division were wholly or partially decentralized so as to fill the same only from the employees who are working at the Jagadhri Workshop. Learned counsel for the petitioner submits that the Jagadhri Workshop is also part of the Ambala Division and the petitioner-Ram Parvesh Yadav was also working in the Ambala Division and the posts which were to be filled up were also in the Ambala Division. Hence, ignoring the said fact so as to set aside the selection of the petitioner-Ram Parvesh Yadav was incorrect and contrary to the facts on record.

14. Learned counsel for the petitioner-Ram Parvesh Yadav further argues that the instructions dated 25.04.1997 (Annexure A-5) has been made applicable without there being any evidence on record that the post of Staff & Welfare Inspectors were of Jagadhri Workshop and not of the Ambala Division. Hence, the impugned order which has been passed by the Tribunal is without any basis to hold that the two posts advertised belong to Jagadhri Workshop only and not to Ambala Division.

15. Learned counsel appearing on behalf of the respondent No.2-applicant submits that after the selection on the post in question, the employees were posted at Jagadhri Workshop, hence, it has to be seen that the posts existed at Jagadhri Workshop. Hence, the instruction dated 25.04.1997 has rightly been made applicable by the Tribunal so as to set



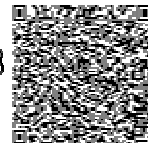
aside the selection and to remand the case back for a fresh selection only qua the employees who had applied from the Jagadhri Workshop.

16. We have heard learned counsel for the parties and have gone through the record with their able assistance.

17. In order to accept an application filed before the Tribunal, first it has to be seen as to whether, the same is permissible to be filed keeping in view the cause of action raised in the application or not. As per Section 21 of 1985 Act, the Original Application can only be filed before the tribunal within a period of one year of the cause of action accruing to an employee who pleads grievance against any act. In the present case, the advertisement was issued by the Railway Board on 12.10.2011. That being so, the said advertisement could have been challenged upto 11.10.2012 only. The respondent No.2-applicant despite having knowledge, did not raise any grievance against the said advertisement within the limitation period. As noticed hereinbefore, even while filing the Original Application, the advertisement dated 12.10.2011 has never been impugned.

18. Further, the select list in pursuance to the advertisement dated 12.10.2011 was prepared on 06.11.2012. The respondent-applicant also failed to initiate any grievance qua the select list within a period of one year even from the said date. Hence, the grievance being raised by the respondent No.2-applicant was first required to be adjudged as to whether the same is permissible keeping in view Section 21 of 1985 Act.

19. Learned counsel for the respondent No.2-applicant has failed to show to this Court that the Tribunal even noticed the said fact while allowing the plea of the respondent No.2-applicant.



20. That being so, once the grievance raised by the respondent No.2-applicant was concededly beyond a period of one year, the same could not have been even entertained by the Tribunal keeping in view the limitation provided under Section 21 of 1985 Act, hence, entertaining of the Original Application filed by the respondent No.2-applicant in the year 2015 which period is much beyond of period of limitation of one year as provided under the Act, the Original Application was liable to be dismissed on the ground of limitation itself.

21. At this stage, learned counsel for the respondent No.2-applicant submits that he came to know about the instructions dated 25.04.1997 only in the year 2014.

22. Even if, it is assumed for the sake of argument that the said argument is factually correct, then also he could have only filed the original application before the tribunal along with an application seeking condonation of delay which was never done. Hence, the Original Application was prima facie beyond the period of limitation as envisaged under Section 21 of the Act and the Original Application could not have been entertained by tribunal on merits.

23. Apart from this, once an adjudication has been done on merits, this Court is required to look into as to whether, the claim raised by the respondent No.2-applicant was maintainable even as per the instructions dated 25.04.1997 or not.

24. It may be noticed that the grievance raised by the respondent No.2-applicant was that where the cadre of Inspector has been wholly or partially decentralized then the selection to the said post is to be conducted unit wise by placing reliance upon instructions dated



25.04.1997. On being asked to point out any letter by which, the posts which were advertised only belong to the Jagadhri Workshop, learned counsel for the respondent-applicant has failed to show any such evidence brought on record. Further, the advertisement which is basis of selection, makes it clear that the posts were of Ambala Division and not of Jagadhri Workshop. As mentioned earlier, the Jagadhri Workshop also comes under the Ambala Division. Hence, once the posts were of Ambala Division and the same was circulated before various offices, it cannot be said that the posts which were advertized were of Jagadhri Workshop only and not of the Ambala Division under which, concededly the selected candidate, i.e. the petitioner-Ram Parvesh Yadav as well as the respondent No.2-applicant were working. Without appreciating the said fact, the instructions dated 25.04.1997 has been made applicable by the Tribunal, which is incorrect. No finding has been recorded that the advertisement dated 12.10.2011 related to the post of Jagadhri Workshop and not of the Ambala Division. Rather, a bare reading of the advertisement dated 12.10.2011 clarifies that the post of Staff & Welfare Inspector was of the Ambala Division and not of the Jagadhri Workshop only.

25. Learned counsel for the respondent No.2-applicant concedes that the advertisement in question does not show that the posts were of the Jagadhri Workshop and not of Ambala Division. Further, it may be noticed that till the advertisement is set aside being contrary to the instructions dated 25.04.1997, the selection which was made in pursuance to the advertisement dated 12.10.2011 cannot be set aside. A bare perusal of the impugned order passed would show that the advertisement dated



12.10.2011 has not been set aside, rather, a direction was given to make a fresh selection under the same advertisement. Once, it has been held that the advertisement dated 12.10.2011 related to the posts of Staff & Welfare Inspector in Ambala Division and were not of Jagadhri Workshop, the Tribunal did not appreciate the facts correctly to reach to the conclusion that the selection was bad and was covered by the instructions dated 25.04.1997. Keeping in view the above, the order passed by the Tribunal dated 28.11.2017 (Annexure P-6) is perverse to the facts brought on record as well as to the provisions of the Act and hence, cannot be sustained and is accordingly, set aside. The selection of petitioner-Ram Parvesh Yadav will be treated as a valid selection in the facts and circumstances of the case.

26. The writ petitions are accordingly allowed.

27. At this stage, learned counsel for the respondent No.2-applicant submits that once the selection has been held to be valid and only one post was filled and the second post has not been filled up, liberty be given to avail appropriate remedy to claim the second post in case the applicant is eligible to claim as per the merit determined and the validity of the select list.

28. Ordered accordingly.

29. A photocopy of this order be placed on the connected file.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

06.08.2025

sumit.k

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No