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

CWP No.7373 of 2016

Date of decision: April 25, 2016

Union of India and another

.....Petitioners

Versus

Rakesh Kumar and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI**

**Present: Mr. Rajiv Sharma, Advocate
for the petitioners.**

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT, J. (Oral)

The Union of India and Railway Authorities have challenged the order dated 20.05.2015 (Annexure P-10) passed by the Central Administrative Tribunal ('CAT' for short), Chandigarh Bench, vide which direction for the promotion of respondent No.1 to the post of Goods Guard has been issued.

The facts are not in dispute. First respondent appeared in the competitive selection process held in the year 2005 and based upon his performance in the written examination, was apparently placed at number 30 in the order of merit. This fact is discernible from the document Annexure A-2, which is an official communication and has

been appended by first respondent with his Original Application.

Since the petitioner-authorities took a stand before the Tribunal that only 30 officials were to be promoted and the first respondent did not make it as per his merit in the written test, the Tribunal called for the original record of the selection. In response thereto, the petitioners took a plea that the records are “untraceable”.

In these circumstances the Tribunal was left with little choice except to rely upon the communication Annexure A-2 and accept the claim of first respondent.

We have asked learned counsel for the petitioners as to whether the missing record is traced out and can be produced? He candidly admits that the record not is traceable. The plea taken by the petitioners before the Tribunal has to be viewed in the light of serious allegations made by the mother of first respondent in her complaint Annexure A-6 alleging corruption and demand of bribe by two members of the selection committee. Not only this, respondent No.1 arrayed these two members of the selection committee as respondents in their personal capacity before the Tribunal.

It appears to us that the record of the selection has not been produced before the Tribunal in collusion and in connivance with members of the Selection Committee

and some of the selected candidates. Had the record been produced, the claim of respondent No.1 would have been fortified. In these circumstances, the adverse inference drawn by the Tribunal against the authorities, calls for no interference.

Dismissed.

[SURYA KANT]
JUDGE

[A.B. CHAUDHARI]
JUDGE

April 25, 2016
mahavir