

CWP No.17020 of 2014

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

**CWP No.17020 of 2014
Date of decision:31.07.2017**

Rajesh Chauhan

... Petitioner

Vs.

Central Administrative Tribunal, Chandigarh Bench
and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Raman B. Garg, Advocate
for the petitioner.

Mr. Puneet Jindal, Senior Advocate with
Ms. Shreya Vasishtha, Advocate
for respondents No.2 and 3.

AJAY KUMAR MITTAL J.

The petitioner has impugned the order dated 03.07.2014 (Annexure P-7) passed by respondent No.1, by way of present writ petition filed under Articles 226/227 of the Constitution of India and further has sought directions to respondents No.2 and 3 to issue the appointment letter to him in accordance with his merit alongwith all consequential benefit of seniority, pay and arrears of salary arising therefrom.

2. Learned counsel for the petitioner has referred to the order dated 29.02.2016 passed by this Court which reads as under:-

“Learned counsel appearing for the respondents No.2 and 3 namely Union of India through its Secretary, Ministry of Railways and Railway Recruitment Board, Chandigarh submits

based on the information collected by the Railway Recruitment Board from the Deputy Chief Personnel officer, Railway Coach Factory, Raebareli that out of eight candidates provided by Railway Recruitment Board on selection against the indent placed by Railway Coach Factory, Raebareli, only three candidates reported for duty. The remaining five vacancies have been filled up by way of transfer on the basis of option exercised by the employees concerned of the other railways. It is his further submission that Railway Coach Factory, Raebareli has to answer as to why the five vacant posts had been filled up by transfer on the above basis, despite the indent placed by them for those vacant posts also. It is his further submission that the merit list has been prepared considering the scoring in the test, category of the candidates and the option exercised by them.

In our considered view, there is no necessity to implead Railway Coach Factory, Raebareli as a party to this writ petition inasmuch as Union of India through its Secretary, Ministry of Railways, New Delhi is a party before this Court.

We are prima facie of the view that the Railway Coach Factory, Raebareli should not have filled up those five vacant posts also with the selected/wait listed candidates against the indent they placed before Railway Recruitment Board instead of filling them through transfer on option basis from the

employees working in other railways, ignoring the right of the waitlisted candidate who was waiting for appointment right from the day when he was wait-listed. Further, we wanted to know whether the three successful candidates who joined service in Raebareli have occupied the slot meant for OBC.

We direct the Deputy Chief Personnel Officer, Railway Coach Factory, Raebareli which comes under the direct purview of Union of India through its Secretary, Ministry of Railways, New Delhi to file an affidavit as to why he had chosen to fill up five vacant posts that had arisen on account of non-joining of duty by the selected candidates against the indent of eight candidates placed by them by Railway Recruitment Board. He shall also clarify whether all the three candidates who joined the post in Railway Coach Factory, Raebareli have occupied all the slots meant for OBC category.”

3. At the outset, learned counsel for respondents No.2 and 3, on instructions from Sh. Manish Singh, Deputy Chief Personnel Officer, Modern Coach Factory submitted that the respondent- Modern Rail Coach Factory has no objection for issuance of appointment letter to the petitioner due to occurrence of new vacancy which has come during the pendency of the writ petition. It was, however, stated that respondents No.2 and 3 are prepared to issue appointment letter provided the petitioner does not claim seniority, pay and arrears of salary from back date.

4. Learned counsel for the petitioner on instructions from petitioner-Rajesh Chauhan, who is present in Court, submitted that he would not claim any seniority, pay and arrears of salary from the back date.

5. In view of the aforementioned consensus arrived at between learned counsel for the parties, the writ petition is disposed of. The respondents are directed to issue appointment letter to the petitioner within a period of 30 days from today. Needless to say that the petitioner shall not be entitled to claim seniority, pay and arrears of salary from the back date as agreed by him.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 31, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No