



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7358/2024

1. Union of India,
through its Chairman,
Railway Board, Rail Bhawan,
New Delhi 110 001.
2. Principal Executive Director,
Vigilance Railway Board,
Rail Bhawan,
New Delhi 110 001.
3. The General Manager,
South East Central Railway,
Bilaspur (C.G.) 495 004.
4. The Principal Chief Personnel
Officer, South East Central Railway,
Bilaspur (C.G.) 495 001.
5. Senior Deputy General Manager
cum Chief Vigilance Officer,
South East Central Railway,
Bilaspur (C.G.) 495 001.
6. Deputy Chief Mechanical Engineer,
South East Central Railway o/o Chief
Workshop Manager, Motibagh
Workshop, Nagpur 440 004.
7. The Chief Workshop Manager,
South East Central Railway,
Motibagh Workshop, Nagpur 440 004.

8. Assistant Personnel Officer Motibagh
Workshop, South East Central Railway,
Motibagh, Nagpur 440 004.

... Petitioners
(Original Respondents)

- Versus -

1. Shubham S/o Late Amardeep Gajbhiye,
aged about 27 Yrs., Occ. Nil,
R/o Ward No.1, Chicholi, Near Gram
Panchayat Office, Near Khaparkheda
Thermal Power Station, Khaparkheda,
Distt. Nagpur 441 111.

(Original Applicant)

2. Shri Amresh Kumal Shukla,
Assistant Work Study Officer,
South East Central Railway,
Bilaspur (C.G.) 495 001.

... Respondents

Mr. S.A. Chaudhari, Advocate for the petitioners.
Mr. N.W. Almelkar, Advocate for respondent No.1.

CORAM: M.S. JAWALKAR AND MRS.VRUSHALI V. JOSHI, JJ.
DATE OF RESERVING THE JUDGMENT: 20.6.2025.
DATE OF PRONOUNCING THE JUDGMENT: 26.6.2025.

JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Rule. Rule made returnable forthwith. Heard finally
with the consent of learned Advocates for the parties.

2. The petitioners have challenged the order passed by
the Central Administrative Tribunal, Mumbai Bench, Camp at

Nagpur dated 21.8.2024 thereby directing the petitioners to consider the respondent No.1 for suitable appointment on the basis of his qualification and appoint him on a suitable post on compassionate ground within a period of two months.

3. It is the case of respondent No.1 that his father Mr. Amardeep Gajbhiye died on 23.4.2018 who was working as Technician Grade I in the Group C Category at Motibagh Workshop, Nagpur. The respondent No.1 holds qualification of M.Tech. Post Graduate Degree in Electronics and Telecommunication, therefore, he applied for compassionate appointment and appeared for examination conducted by the petitioners for the post of Junior Engineer. The respondent No.1 appeared for twice and he was unsuccessful in said examinations. The respondent No.1 appeared for third attempt on 28.2.2022 but his result was not declared and it was informed on 10.5.2023 by the petitioners that his candidature was cancelled and he stands disqualified for appointment on compassionate ground. The

allegations were made that one Mr. A.K. Shukla had extended undue favour to the respondent No.1 by adopting unfair means by swapping question paper and providing tick-marked answers in question paper for helping him during written examination for compassionate appointment which was held on 28.2.2022 due to which the candidature of respondent No.1 has been cancelled by the administration and disqualified him for compassionate appointment in Railway. Shri Amaresh Kumar Shukla is facing disciplinary proceedings for the said act. The respondent No.1 filed Original Application No.690/2023 before the Administrative Tribunal and Tribunal has passed the judgment and order thereby directing the petitioners to consider the respondent No.1 for suitable appointment on compassionate ground. Being aggrieved by the said judgment and order, the petitioners have challenged it before this Court.

4. The respondent No.1 has filed his reply and opposed the claim of the petitioners and submitted that no fault can be found with the judgment and order of the learned Tribunal. It is

submitted that there is no substance in the petition and same deserves to be dismissed.

5. Heard both sides and perused the record.

6. It appears from the record that after two unsuccessful attempts the respondent No.1 was not allowed to appear for examination. He has filed the application before the Central Administrative Tribunal, Jabalpur and as per the Rules direction was given to allow him to give one more chance to appear for examination. The respondent No.1 has applied for appointment on compassionate ground as per the required educational qualification. The respondent No.1 is M. Tech. in Electronics and Telecommunication and, therefore, he was eligible for the post of Junior Engineer in Level-6 in Group "C" Category. It appears from the record that though he holds qualification of post graduation in Electronics and Telecommunication he was required to appear twice in examination for Mechanical subject

because of which he was not successful in said examination. In third attempt he had answered 60 questions out of 85 correctly but the allegations were made that the malpractice in the examination was done by him and by the superior officers of their own department. On perusal of record it appears that the respondent No.1 was in no way responsible for the alleged malpractice. The allegations were not that the question paper setter has leaked it to Mr. Shukla even before printing it. There is no statement by the petitioners whether there was any instruction to the candidates not to fold the question paper. There is nothing on record to show that how the Nodal Officer was able to help the candidate and what was his qualification and whether he was having knowledge of that subject. Therefore, the allegations about malpractice on the part of the Nodal Officer are not sufficient to reject the claim of the respondent No.1 to disqualify him from the appointment on compassionate ground. There are no allegations about furnishing any false information or producing false certificate. The office communication is filed on

record by the learned Advocate for the respondent No.1 which is at pages 189 and 190 of the writ petition. It appears that the Chief Office Superintendent (Establishment) on 15.11.2022 categorically pointed out that previously during the regime of Shri A.K. Shukla (respondent No.2) a similar case of appointment on compassionate ground was dealt with. Ku. Mrunali Dongre was diploma holder in Computer Engineering and she had insisted for the written examination of Junior Engineer in the subject of Information Technology. The case was correctly dealt with by the said Personnel Officer at Motibagh Workshop as he was aware of the qualification of that candidate. The candidature and her name was forwarded to Nagpur Division by the Personnel of Chief Workshop Manager, Motibagh Workshop, Nagpur as there was no vacancy of Junior Engineer of Information Technology in Motibagh Railway Workshop. It is observed that due to unawareness about the technical subject syllabus of Mechanical Engineering, the respondent No.1 was asked to write examination in the said subject instead of Electronics by the Workshop

Personnel Officer, Motibagh Workshop and Chief Staff and Welfare Inspector. The last examination was conducted on 28.2.2022 in which the respondent No.1 appeared, was cancelled as per the letter dated 7.11.2022 issued by the Assistant Vigilance Officer which is at page 188. As per said communication the candidate could be called for re-examination as per qualification and examination was conducted as per the guidelines of Railway Establishment Rule No.273/2022. It was also observed that if the candidate agrees to take up the post of Technician-III after due examination, he could be posted in Motibagh Workshop. Though it is directed to Assistant Workshop Personnel Officer to inform the candidate regarding the cancellation of examination which was conducted on 28.2.2022 and he was required to appear for re-examination it appears that at the foot of it, it is mentioned that “on the basis of letter of Vigilance Department the decision has been taken by the Chief Workshop Manager and the letter has been received from the headquarters which was communicated”. Even on perusal of this note it appears that the

Railway Management had already taken a decision in principle to rectify its mistake of forcing the respondent No.1 to appear in written examination in the subject of mechanical engineering and authorities had also made up their mind to allow the respondent No.1 to appear in written examination in his own subject but he was not called for written examination and the petitioners did not act upon the said office communication. The respondent No.1 was not even extended any opportunity of hearing without disclosing any reason and without issuing show cause notice he was informed that he is disqualified for said appointment.

7. For the aforesaid reasons, it has to be held that the learned Tribunal has rightly allowed the application filed by the respondent No.1, therefore, interference at the hands of this Court is not warranted. Writ Petition is accordingly dismissed with no orders as to costs. Rule discharged.

(MRS.VRUSHALI V. JOSHI, J.)

(M.S. JAWALKAR, J.)