



2026:AHC:42080-DB

Reserved on 03.02.2026

Delivered on 25.02.2026

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HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 102 of 2025

Ahsan Khan and 3 others

.....Petitioner(s)

Versus

Union of India and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Khare (Sr. Adv.) with Kauntey Singh, Siddharth Khare
Counsel for Respondent(s)	: A.S.G.I., Archit Mehrotra

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.**

(Per: Kshitij Shailendra, J.)

1. Heard Shri Ashok Khare, learned Senior Counsel assisted by Shri Kauntey Singh, Advocate for the petitioners and Shri Archit Mehrotra, learned counsel for the respondents.

2. This writ petition has been filed challenging the order dated 21.11.2024 whereby the Central Administrative Tribunal, Allahabad Bench, Allahabad ('the Tribunal') has dismissed the Original Application

(‘OA’) No.330/01562 of 2014 filed by the petitioners. The said OA was filed challenging a list dated 25.11.2014 whereby a panel promoting certain candidates as Senior Permanent Way Supervisors was declared excluding the petitioners. Further prayer was made to direct the respondents to include the names of the petitioners in the list with reference to the earlier panel dated 11.07.2012 formulated against 22 vacancies of Senior Permanent Way Supervisors by excluding the names of respondents No.5 and 6 therein and, further, to promote the petitioners also and to treat them similar to the persons placed at Serial Nos. 4 to 15 in the list dated 25.11.2014.

3. Brief facts of the case are that the petitioners, belonging to different reserved categories, who are working as Track Maintainers in different grades under North Central Railways, Agra Division, participated in Limited Departmental Competitive Examination Quota of 25% for promotion to the post of Senior Permanent Way Supervisors. Notification inviting applications in that regard was issued on 15.02.2012, written examination was held on 03.06.2012 in which the petitioners qualified, whereafter, on the recommendations made by the Departmental Promotion Committee based upon assessment of service records and ACRs of the candidates, a panel dated 11.07.2012 was duly published with approval of the competent authority. The names of the petitioners found mention in the said panel, however, before the panel could be implemented, the respondents cancelled the entire selection by an order dated 26.11.2012 based upon some investigation conducted and recommendation made by the Vigilance Department.

4. Feeling aggrieved of cancellation, some employees filed ‘OA’ No.1771 of 2012 before the Tribunal and a set of 10 other persons filed separate ‘OA’ No. 511 of 2013. The Tribunal allowed both the ‘OAs’ *vide* orders dated 03.07.2013 and 01.04.2014, respectively and a direction was issued to the respondents to complete the selection process by separating 7 identified candidates and inform them accordingly and to declare result of the rest of the candidates of the panel.

5. The respondents challenged the orders passed by the Tribunal by filing Writ A Nos.36562 of 2014 and 36563 of 2014, both of which were dismissed by this Court *vide* order dated 17.07.2014, thereby confirming the orders of the Tribunal.

6. Thereafter, the respondent-Railways published the impugned list/panel dated 25.11.2014 excluding the names of the petitioners who were earlier there in the panel dated 11.07.2012. It was the said list/panel dated 25.11.2014 which was assailed before the Tribunal on various grounds.

7. The respondents opposed the claim of the petitioners by filing a counter affidavit taking a stand that deletion of the names of 7 empanelled candidates from the panel dated 11.07.2012 was done in compliance of the orders passed by the Tribunal, as confirmed by the High Court and based upon the investigation done by the Vigilance Department as per paragraph 219(L) of Volume-1 of Indian Railway Establishment Manual (IREM).

8. The Tribunal, after considering the case of the parties, came to the conclusion that since the Tribunal had, in previous round of litigation, directed that select panel dated 11.07.2012 be kept intact but excluding those 7 candidates against whom the Vigilance Department had detected irregularities in connection with award of marks, there was no error in excluding the names of the petitioners. It was further observed by the Tribunal that the applicants in 'OA' (including the petitioners herein) had deleted the names of respondents No.5 and 6 from the array of respondents and since both the reliefs (reliefs No.1 and 2) claimed in the 'OA' were related to exclusion of names of the respondents No.5 and 6 and no amendment in the relief clause was made, reliefs claimed in the 'OA' were liable to be rejected. With these observations, the Tribunal dismissed the 'OA' being devoid of merits.

9. Shri Khare has made submissions that impugned action is arbitrary and not supported by any rationale; that no opportunity of hearing was provided to the petitioners before excluding their names

from the panel; that deletion of petitioners' names based upon vague allegations taking aid of vigilance action in relation to award of marks to 7 candidates, is without any cogent basis; that the vigilance report, apart from indicating that marks were awarded for incorrect answers, does not specify anything further as to what were the questions, their correct answers and the mistake allegedly committed by the individual petitioners on account of which, they were not entitled to get the marks and, lastly; that if revision of marks was at all done, the same would have resulted in re-allocation of the merit position of the petitioners and they would have still continued to remain in the select list.

10. Learned counsel for the respondents has made submissions that the Tribunal had itself earlier directed to exclude the names of 7 candidates who had been identified by the Vigilance Department and inform them about the same and since the orders of the Tribunal were upheld by this Court while dismissing the writ petitions preferred by the respondents, no illegality has been committed by the respondents in ensuring compliance of the orders passed. It is further submitted that since the Vigilance report indicates wrongful award of marks to the petitioners and other similarly situated candidates when the previous panel dated 11.07.2012 had been declared, the petitioners have no right to claim any relief.

11. We have heard learned counsel for the parties and have perused the material available on record.

12. Based upon the submissions made by Shri Khare on the first date of hearing, this Court passed following order on 04.02.2025:-

“1. It is submitted by the counsel for the petitioners that the Tribunal was not justified in dismissing the Original Application based on the earlier orders passed by it, upheld by the High Court, inasmuch as the only issue therein pertained to cancellation of the entire panel. Submissions have been made that even if the marks as awarded to the petitioners are deducted as per the vigilance report, still they continue to remain in the panel.

2. Counsel for the respondents prays for time to complete instructions on the aspect as to whether even if marks of the petitioners are reduced to the extent indicated in the vigilance

report, they would continue to remain in the panel or go out from the panel.

3. Needful may be done before the next date.

4. List the petition as fresh on 19.03.2025. ”

(emphasis by Court)

13. In response to the query made by the Court, counter affidavit was filed by the respondents, however, the same did not answer the query made and, accordingly, following order was passed on 04.08.2025:-

“1. Counter affidavit filed by the respondents does not answer the query made by the Court on 04.02.2025 which is specific.

2. Counsel for the respondents prays for time to file supplementary counter affidavit placing on record the status in terms of the directions given by the Court.

3. It would also be required of the respondents to indicate the present status in relation to the seven vacancies qua which the petitioners are claiming their rights.

4. Needful may be done before the next date.

5. List on 03.09.2025 as fresh. ”

(emphasis by Court)

14. Thereafter, a supplementary counter affidavit was filed which also did not answer the query of the Court and, under such circumstances, the Court had to take a serious note of the situation and following order was passed on 10.12.2025:-

“1. On 04.02.2025, when the matter came up before this Court, it was observed and directed by this Court as under:

"1. It is submitted by the counsel for the petitioners that the Tribunal was not justified in dismissing the Original Application based on the earlier orders passed by it, upheld by the High Court, inasmuch as the only issue therein pertained to cancellation of the entire panel. Submissions have been made that even if the marks as awarded to the petitioners are deducted as per the vigilance report, still they continue to remain in the panel.

2. Counsel for the respondents prays for time to complete instructions on the aspect as to whether even if marks of the petitioners are reduced to the extent indicated in the vigilance report, they would continue to remain in the panel or go out from the panel.

3. Needful may be done before the next date.

4. List the petition as fresh on 19.03.2025."

2. A counter was filed whereafter on 04.08.2025, it was ordered by this Court as under:

"1. Counter affidavit filed by the respondents does not answer the query made by the Court on 04.02.2025 which is specific.

2. Counsel for the respondents prays for time to file supplementary counter affidavit placing on record the status in terms of the directions given by the Court.

3. It would also be required of the respondents to indicate the present status in relation to the seven vacancies qua which the petitioners are claiming their rights.

4. Needful may be done before the next date.

5. List on 03.09.2025 as fresh."

3. Pursuant to the aforesaid order, a supplementary counter affidavit has been filed.

4. A perusal of the supplementary counter affidavit indicates that while answer to the query pertaining to the existence of vacancies has been given, the query made on 04.02.2025 reiterated on 04.08.2025, remains unanswered.

5. When counsel for the respondents was asked about there being no response to the query made and reiterated by the Court, the answer is that query does not arise.

6. The response given and the filing of the counter affidavit and supplementary counter affidavit by not responding to the specific query made by the Court cannot be appreciated.

7. The requisite response be filed on or before the next date failing which Sr. D.P.O. (IRPS), North Central Railway, Agra shall remain personally present before this Court.

8. List the petition on 15.01.2026, as fresh."

(emphasis by Court)

15. In pursuance of the aforesaid direction, a second supplementary counter affidavit was filed by the respondents, stand taken wherein would be indicated hereinlater.

16. It is not in dispute that the petitioners, after undergoing the process of selection to get promotional posts, were placed in the panel declared on 11.07.2012. As to, then, what would be the consequence of the orders passed by the Tribunal on earlier challenge laid to cancellation of the said panel, we find that the sole basis for excluding the names of the petitioners from the subsequent panel dated 25.11.2014 is a vigilance report dated 23.08.2013. The said report, being germane to the controversy involved, it would be appropriate to extract those portions

thereof which may be read against the petitioners. The same are reproduced as under:-

"उक्त संदर्भ में पैनल से हटाये जाने वाले सात कर्मचारियों से संबंधित निम्न सूचना आपकी कार्यवाही एवं संदर्भ हेतु प्रेषित है:-

1-कापी कोड पी०डब्लू०एस०-52 (श्री प्रेमसिंह मीना एसटी)-इनकी उत्तर पुस्तिका की जांच में प्रश्न सं० 10 (1) व (iv) में कटिंग ओवरराइटिंग होने पर भी अंक दिये गये हैं

जबकि रेलवे बोर्ड के निर्देशानुसार ऐसे प्रश्नों का मूल्यांकन नहीं किया जाना चाहिये था।

प्रश्न सं० 8 (II) में माडल आंसर के अनुसार गलत उत्तर होने पर भी अंक दिये गये हैं।

इस प्रकार कुल 6 अंक अधिक दिये गये हैं।

यदि इन अंकों को कम कर दिया जाये तो इनके अंकों का प्रतिशत 63.5 हो जायेगा। इस कारण पैनल में इनकी स्थिति बदल जायेगी एवं पैनल के क्र०सं० 14 के कर्मचारी का नाम पैनल हटाना होगा।

4-कापी कोड पी०डब्लू०एस०-81- (श्री एहसान खान)-प्रश्न सं० 11- (iv) के गलत आंसर पर भी 2 अंक दिये गये हैं जबकि नहीं दिये जाने चाहिये थे। इस प्रकार 2-अंक कम कर दिये जाने पर इनके कुल अंक 63 हो जायेंगे। अतएव इनका नाम पैनल से हटाना होगा।

उत्तर के अलावा अंतिम हल किये गये प्रश्न के उत्तर में भी अंक दिये गये हैं जबकि वह किस प्रश्न संख्या का उत्तर है यह विदित नहीं होता है। ऐसे प्रश्न के लिये अंक नहीं दिये जाने थे।

6-कापी कोड पी०डब्लू०एस०-62 (श्री मुकेश कुमार बैरवा एससी)-प्रश्न सं० 9 (iv) में कटिंग / ओवरराइटिंग पर भी 2 अंक दिये गये हैं जो नहीं दिये जाने चाहिये थे। इस प्रकार 2 अंक कम कर दिये जाने पर इनके कुल अंक 56 हो जायेंगे। अतएव इनका नाम पैनल से हटा होगा।

7-कापी कोड पी०डब्लू०एस०-46 (श्री बचनलाल मीना (एसटी))-प्रश्न सं० 7 (iii) एवं 11 (iv) में कटिंग /ओवरराइटिंग पर भी 2-2 अंक दिये गये हैं जो नहीं दिये जाने चाहिये थे। इस प्रकार से अंक कम कर दिये जाने पर इनके कुल अंक 52.5 हो जायेंगे। अतएव इनका नाम पैनल से हटाना होगा।"

(emphasis by Court)

17. A bare perusal of the aforesaid extract from the vigilance report indicates that based upon some cutting/overwriting/wrongful award of marks, the marks obtained by the petitioners were reduced to 63, 63.5, 56 and 52.5, respectively for petitioners No.1, 2, 3 and 4.

18. It is the said reduction/readjustment of marks indicated in the vigilance report which had persuaded the Court on the first date of hearing to call the respondents to indicate as to whether, even if marks of the petitioners were reduced to the extent indicated in the vigilance report, would they continue to remain in the panel or go out from the same.

19. The respondents filed a second supplementary counter affidavit making following statement in 4th paragraph thereof:-

“4). That the deponent is authorized to submit that after reducing the marks of the petitioners which was indicated in the vigilance report, the petitioners would be continue to remain in the provisional panel. It is further submitted that the provisional panel dated 11.07.2012 was cancelled due to recommendation made by the vigilance officer by letter dated 04.10.2012 (already been annexed as Annexure CA-2 in the counter affidavit).”

20. It is, therefore, apparent that as per the respondents also, even after reduction of marks pursuant to some inquiry made, the petitioners would continue to remain in the panel.

21. In view of the above discussion, even if we accept the vigilance exercise to be correct on its face value, the net result could not be against the petitioners so as to justify their exclusion from the previous panel dated 11.07.2012 and the petitioners would remain entitled to occupy their place in the panel.

22. In view of the above discussion, we find that the Tribunal misread the relief clause contained in the ‘OA’ and merely because at some point of time, the petitioners had deleted the names of the respondents No.5 and 6, i.e. two individual candidates, from the array of respondents, such deletion could not be treated to be fatal to the claim of the petitioners. Therefore, the observations made by the Tribunal that since no amendment in the relief clause has been made after deletion of names of respondents No.5 and 6 and that both the reliefs No.1 and 2 relate to exclusion of their names, are apparently perverse as the Tribunal has not carefully read the second part of the second relief claimed in the ‘OA’ which was to issue a direction to promote the petitioners also and to treat them similar to the persons placed at Serial Nos.4 to 15 in the list dated 25.11.2014.

23. Once the previously declared panel dated 11.07.2012 contained the names of the 22 candidates including the petitioners and, after excluding the names of 7 candidates including the petitioners, panel of 15 candidates was declared, even if the names of respondents No.5 and 6

were deleted from the array of parties, the relief claimed by the petitioners qua their promotion and treating them similar to the persons included in the list of 15 candidates, did survive and still survives.

24. We are conscious of the fact that ouster/exclusion of the petitioners from the panel was done in the year 2014 and the 'OA' filed in that very year has been decided after ten years in the year 2024 and we are deciding the writ petition in the year 2026. However, the same would not result in causing prejudice to rightful claim of the petitioners.

25. In this regard, making reference to the judgment of Hon'ble Supreme Court in **Vansh S/o Prakash Dolas v. Ministry of Education and the Ministry of Health & Family Welfare and others : 2024 SCC OnLine SC 342**, as relied upon by Shri Khare, appears to be appropriate, wherein, the Hon'ble Supreme Court, by referring to its previous decision in **Manoj Kumar v. Union of India : 2024 SCC OnLine 163**, observed that in public law proceedings, when it is realised that the prayer is unattainable due to passage of time, claim should not be dismissed by the Constitutional Courts on the ground of their perceived futility and in the life of litigation, passage of time can stand both as an ally and adversary and it is the duty of the Court to transcend the constraints of time and perform the primary duty to control and regulate the exercise of power or arbitrary action. It has further been observed that the temporal gap between the impugned illegal or arbitrary actions and their subsequent adjudication by the courts introduces complexities in the provision of restitution, however, the Court should try to subserve the primary purpose and object of public law proceedings by appropriately providing remedial measures and relief in the nature of restitution.

26. In view of the above discussion, the writ petition succeeds and is **partly allowed**.

27. The order impugned dated 21.11.2024 passed by the Tribunal is hereby **set aside** and the 'OA' to the extent of granting second part of the second relief stands allowed.

28. Accordingly, the respondents are directed to promote the petitioners on the post of Senior Permanent Way Supervisor w.e.f. 25.11.2014 like other candidates included in the said panel/list and grant all consequential benefits to them at par with the said candidates within a period of **three months** from the date a certified/true-attested copy of this order is placed by the petitioners before the respondents.

(Kshitij Shailendra, J) (Arun Bhansali, CJ)

February 25, 2026
Jyotsana