

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 782 of 2002

Date of Decision 7.2.2003

Shri Som Nath and Ors. ... Applicants

(Shri B. S. Mainse) ... Advocate for the Applicants

VERSUS

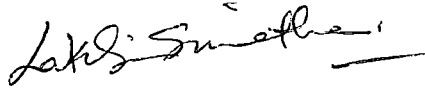
UOI and Ors. ... Respondents

(Shri Rajinder Khatter)..... Advocates for the Respondents

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.K. Malhotra, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.782 of 2002

This the 7th day of February, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.K. Malhotra, Member (A)

1. Shri Som Nath,
S/o Shri Malkhan Singh,
 2. Shri Daman Kumar Ghai,
S/o Shri Prabhu Dayal,
 3. Shri Raman Kumar
S/o Shri Amir Chand,
 4. Shri Jagmmohan,
S/o Shri Promod Singh,
All Drivers (Goods) working under
Sr. Section Engineer (Diesel),
Diesel Workshop, Shakurbasti
& Tughlakabad.Applicants
- (By Advocate : Shri B.S. Mainee)

Versus

- Union of India through
1. The General Manager
Northern Railway,
Baroda House,
New Delhi.
 2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
 3. The Divisional Personnel Officer
Northern Railway,
State Entry Road,
New Delhi. ...Respondents
- (By Advocate : Shri Rajinder Khatter)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J):

This application has been filed by four applicants, who are aggrieved by the impugned order passed by the respondents dated 26.2.2002 (Annexure A-1) declaring others as having passed in the examination and omitting to include the names of the applicants in the final panel for promotion to the posts of Driver (Passenger).

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2. Brief facts of the case are that the applicants are working as Drivers (Goods). They were within the eligibility zone for consideration for promotion to the next higher post i.e. Driver (Passenger), subject to their fulfilling the eligibility conditions and other requirements as provided in the relevant Recruitment Rules i.e. Paragraph 2.9 (G) of the IREM Vol.I. In the selection in question, there were 129 posts in the grade of Driver (Passenger). Admittedly, the applicants belong to unreserved category. They were called for the written test and viva-voce test, which were the pre-requisite conditions for promotion to the posts of Driver (Passenger).

3. According to the respondents, all the candidates had to obtain 60% marks in professional ability and overall aggregate marks. Shri Rajinder Khatter, learned counsel for the respondents has produced the departmental records pertaining to the selection process, which we have perused and also shown to Shri B.S. Mainee, learned counsel for the applicants.

4. Learned counsel for the applicants has vehemently contended, as mentioned in paragraph 4.17 of the OA, that the respondents have deliberately manipulated the selection procedure with a view to pick up some juniors by declaring them as passed, thereby shunting some seniors down, which he has submitted is the reason why these four applicants have

not found their names in the select panel. He has contended that working of the applicants has always been satisfactory and unblemished and after having qualified in the written test, the question of their not being placed in the select panel and being superseded by their juniors does not arise. However, it is relevant to mention that the applicants themselves in the OA have referred to the marks that are assigned for seniority, professional ability, written test, viva voce test and record of service. He has relied on the judgement of the Tribunal in the case of Mrs. Saroj Ghai Vs. G.M. N.Rly., New Delhi (1997 (1) ATJ 13). Relying on the observations in paragraph 11 of the judgement, in that case learned counsel for the applicants has vehemently submitted that the applicants have been deliberately failed because the respondents wanted to place persons who are juniors to them on the select panel, especially after having found that the applicants have passed in the written test. He has also submitted that the respondents could not have assigned marks for personality and professional ability tests in the same interview/viva voce which itself shows that they have throughout manipulated the results with malafide intentions.

5. The above submissions have been stoutly denied by the learned counsel for the respondents. He has submitted that not only the averments in the OA are vague but the respondents have correctly regulated the selection procedure, in accordance with the selection Rules as amended, by assigning various marks as judged

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by the Selection Committee on the basis of the performance of each candidate. He has stressed on the fact that the candidates have to obtain 60% marks in personality and professional ability test and 60% marks in aggregate and both these conditions have to be fulfilled in terms of the amended Selection Rules. The respondents have also explained in paragraph 4.8, the methodology adopted by them in assigning marks for seniority, viva voce and professional ability in respect of the eligible candidates. In paragraph 4.13, they have also submitted that the role of seniority is not ignored. Learned counsel has emphasised that in the case of persons who qualify in the written test with more than 60% marks who are seniors, it is not necessary that they definitely find a place in the final panel. The twin conditions of 60% marks in professional ability test and 60% marks in aggregate have to be satisfied. The respondents have submitted that although the applicants have qualified in the written test for the posts of Driver (Passenger) but they were not placed in the final panel because they have not scored 60% marks in the professional ability test i.e. written test and viva voce test and 60% aggregate marks in the order of seniority. Learned counsel has submitted that as the respondents have not acted in an illegal manner or against the Rules, the OA may be dismissed.

6. We have carefully considered the pleadings as well as the Departmental records of the selection process in question and the submissions made by the learned counsel for the parties.

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7. We note from the results of the selection that marks have been assigned to the eligible candidates under various headings and the last but one column gives the aggregate marks. On perusal of these results, it is seen that none of the applicants have got the aggregate of 60% marks. It is further relevant to mention that many of the other candidates who have been shown as failed in the selection have also not scored 60% aggregate marks. In other words, only those candidates who have scored 60% marks aggregate and above in the written test, viva-vove test, professional test and record of service and seniority have been placed in the select panel. We are not impressed by the vague averments made by the applicants, ~~and~~ in particular in paragraph 4.17, wherein it has been stated that the respondents have deliberately manipulated the selection procedure with a view to pick up their juniors without any specific mention of the reasons or the particular officers or candidates who are involved in the selection. It is also evident from a perusal of the records of this case that the same criteria and norms have been applied by the Selection Committee while dealing with all the candidates, including the applicants who have failed as well as others who have been declared passed.

8. The main prayer of the applicants is that a direction be issued to the respondents to restrain them from implementing the impugned order or in alternative to keep four vacancies of Driver (Passenger) vacant till the final decision of the O.A.

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or to grant any other reliefs. They have also prayed that the relevant DPC's proceedings i.e. Selection proceedings may be called for, which we have already done and seen. In the facts and circumstances of the case, having regard to the decision taken by the Selection Committee and particularly having regard to the marks obtained by the applicants who have failed, the decision of the Tribunal in Mrs. Saroj Ghai's case (supra) relied upon by the applicants is not applicable to the present situation.


9. Apart from the case, it is settled law that once the applicants have already appeared in the selection proceedings and being declared unsuccessful, they cannot take such vague and indefinite grounds to challenge the selection process, like the ground that the procedure adopted by the respondents is one of pick and choose their juniors and so on - See the judgement of Hon'ble Supreme Court in the case of Chandra Prakash Tiwari and Ors. Vs. Shakuntala Shukla and Ors. (2002 (3) AISLJ 89). It is also relevant to note that the applicants have failed to mention who were their juniors who have been selected in their place in the selection held by the respondents and these averments are, therefore, vague and unsubstantiated.

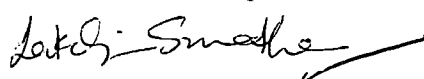
10. It is also settled law that this Tribunal, in exercise of the power of judicial review, is not to sit as if it is a Selection Committee to reassess or allocate marks to the concerned candidates or to sit in appeal over the marks given by the Committee. In the present case, we

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find no illegality in the procedure adopted by the Selection Committee in assigning the marks for the different categories mentioned as above i.e. written test, viva voce test, professional ability and seniority etc. In the circumstances of the case, we find no good grounds to justify any interference in the matter.

11. For the reasons given above, OA fails and is accordingly dismissed. No costs.


(S.K. Malhotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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