

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1615/98

New Delhi this the 27 Day of August 1998

Hon'ble Mr. Justice K.M. Agarwal, Chairman
Hon'ble Mr. R.K. Aahooja, Member (A)

Mrs. Sunita Mishra,
W/o Shri Kiran Mishra,
R/o 105 B,
Opp. Bal Bhawan Public School,
Laxmi Nagar,
Delhi-110 092.

Applicant

(By Advocate: Raman Gandhi)

-Versus-

1. Union of India,
through
The General Manager,
Northern Railway Hqs.,
Baroda House, New Delhi.
2. Shri Bansi Lal,
Catering Inspector,
C/o General Manager,
Northern Railway Hq.,
Baroda House, New Delhi.

Respondents

ORDER

Hon'ble Shri R.K. Aahooja, Member (A)

The applicant is a Catering Supervisor in the Northern Railways. The General Manager, Northern Railways, notified six posts of Catering Inspectors vide letter dated 9.10.1996 (1 ST + 5 unreserved). These were to be filled on the basis of a written test from amongst the Catering Supervisors and Master Cooks. The applicant was also included in the list of eligible candidates and vide Northern Railway Headquarters letter dated 21.8.1997, Annexure 'D' she was placed at Sl. No. 8 in the list of total 9 candidates who were approved for appearing in the viva voce test. Finally, the first 5 of this list were promoted to the post of Catering Inspectors vide letter dated 4.3.1997. Apparently, the

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viva voce test was held prior to that. The applicant submits that she was totally confined to bed due to a health problem which led to a major operation and thereafter she could not attend the viva voce. Her grievance is that the respondent No. 1 notified three more vacancies of Catering Inspectors within the duration of even less than one year of the prior selection for the same post and called for a written test again ignoring the earlier candidates who had qualified the written test for the same post. Thereafter, respondent No. 2 was declared as qualified even though he was not eligible for being promoted. The applicant filed a representation dated 29.1.1998 but it was rejected by the letter dated 24.9.1998 assigning various illegal reasons. This led to the filing of the O.A. No. 414/98 which was disposed of on 24.2.1998 directing the respondents to consider the case of the applicant as well in the forthcoming selection meeting subject to the outcome of the representation alleged to be pending with the respondents. C.P. No. 170/98 filed thereafter was dismissed with observation that the remedy lay not by way of contempt but by way of filing a separate O.A. This has led to the present O.A.

2. We have heard the learned counsel on admission. He submitted that the applicant had qualified the earlier written test by securing the maximum marks though she was listed in the order of seniority for the viva voce test. He argued that the Railway rules provide that in case due to illness a candidate is unable to attend the viva voce, the management is to arrange for a

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supplementary interview. Secondly, according to the learned counsel a panel once prepared is according to the railway rules valid for two years and unless the first panel is exhausted, the respondent No. 1 could not have asked for a second selection.

3. We have considered the matter carefully. It is an admitted position that the applicant did not appear in the *viva voce* at the time of selection for the first vacancy. It is also an admitted fact that against the five vacancies notified, 5 persons were selected and appointed. The applicant did not challenge those selections. When the next three vacancies were notified and the written test was called for, the applicant also participated but this time did not make the grade. It is true that the respondents should have foreseen that 8 vacancies will be available during the course of the year, but the applicant cannot at this stage question the second selection for the reason that she had participated in the selection process. She also did not challenge the selection for the first notification. She cannot therefore make a grievance at this stage that she was not given her proper place in the first panel. She says that respondent No. 2 is ineligible but nothing has been mentioned in the application as to how he is short of the requisite qualifications for taking the promotion test. Thus when the applicant was never in the final panel for the first selection, the selections finally made were not challenged by her, she had failed to make a grade in the second test and no ground has been shown regarding the ineligibility of respondent No. 2, we cannot find a *prima facie* case for us to proceed further in the matter.

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4. In the light of the above discussion, the O.A. is liable to be dismissed at the admission stage itself. We order accordingly.

KM
(K.M. Agarwal)
Chairman

R.K.A.
(R.K. Ahuja)
~~Member (A)~~

Mittal