

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 260/98 with of 199 Decided on: 3.3.98
MA-247/98 & MA- 445/98.

Shri Suresh Prakash & 3 others Applicant(s)

(By Advocate: Shri G. S. Bagrati.)

VERSUS

U.O.I. & 3 others Respondents

(By Advocate: Sh. R. L. Dhawan for official Respondents
Shri B. S. Maini for Pvt. Respondents.)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

Ans. h. g -
(S.R. ADIGE)
VICE CHAIRMAN (A)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 260/98

with

MA -247/98 & MA - 445/98

(6)

New Delhi: this the 3rd day of March, 1998.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

1. Shri Suresh Prakash,
S/o Shri Lakshman Singh,
R/o Working as Chief Law Assistant,
Court Section NDCR Building,
New Delhi.

2. Shri R.P.Girdhar,
S/o Sh. T. R. Girdhar,
Working as CLA Office of COO Claims,
NDCR Building,
New Delhi.

3. Shri H.C. Agarwal,
S/o Shri M.L. Agarwal,
Working as C.L.A.,
NDCR Building,
New Delhi.

..... Applicants.

(By Advocate: Shri G.S.Begar)

Varuers

Union of India
through

1. The Secretary,
Ministry of Railway,
Railway Bhawan,
New Delhi.

2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

3. The Chairman,
Railway Claim Tribunal,
2, Rajpur Road,
Delhi
through its Registrar,
RCT,
Delhi.

4. Sh. Subash Chander Sharma, CLA,
Law Branch (P)
Northern Railway,
Baroda House,
New Delhi

..... Respondents.

(By Advocate: Shri R.L. Chauhan for official Respondents.
Shri B.S.Maine for Pvt. Respondents).

JUDGMENT

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BY HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicants impugn Respondents' order dated 19.1.98 (Annexure-A1) posting Respondent No.4 as Asstt. Registrar in RCT Ghaziabad on adhoc basis.

2. Consequent to the setting up of a RCT Branch in Ghaziabad (letter dated 5.3.97 at Annexure-A2) applications were called for to fill up various posts including that of Asstt. Registrar (letter dated 27.9.97 at Annexure-A5). Applicants along with Respondent -4 appeared in the selection and R-4 was selected vide order dated 20.1.98 (Annexure-R5) for posting as Asstt. Registrar on purely adhoc basis. Meanwhile impugned order dated 19.1.98 intimating approval of Chairman, RCT Ghaziabad for Respondent No.4's posting as Asstt. Registrar had issued.

3. We have heard applicants' counsel Shri Begrar and official respondents' counsel Shri Dhawan as well as Shri Mainee for private Respondent No.4. Shri Begrar has also filed written arguments in which a very large number of grounds have been taken to challenge the selection. During hearing Shri Begrar emphasised that as it was an adhoc appointment, respondents should not have followed the selection process but gone by seniority; that the pay scale mentioned in the impugned order for post of Asstt. Registrar has wrongly been stated to be Rs.2375-3750/- when it is actually Rs.2000-3200; there was no written test, viva voce, and panel formation as laid down in the relevant

rules governing promotion of Subordinate Staff (Annexure-RJ 6) and DPAR's OM dated 10.4.89 (Annexure-RJ 16) was also not followed.

4. We have carefully considered the grounds taken by Shri Begrar in his written submissions as well as those made at the bar.

5. Admittedly the post of Asst. Registrar in the Railway Claims Tribunal (RCT) is an ex-cadre post. In terms of Railway Board's letter dated 5.3.97, R-2 have been permitted to call for applications for suitable staff willing to work there, and it was laid down that the post of Asst. Registrar as also the other Group 'C' and 'D' staff could be selected in consultation with the concerned bench of the RCT. Accordingly applications were called for, and as R-4 fulfilled the requisite eligibility conditions, he also applied for the post and his name was forwarded by the General Manager, Northern Railway. In all 11 candidates including the applicants as well as R-4 appeared for the interview, which was conducted by a Selection Board comprising of Member (Administrative), Member (Judicial) and Member (Technical) who have been nominated by the Chairman, RCT to hold the selection. The Selection Board had called for the service records and ACRs of all the candidates. Having held the interview and considered the service records of all the candidates including the service records of

R-4, the Board recommended R-4 for appointment as Asst. Registrar which recommendation was approved by the Chairman, RCT, who was empowered to do so in terms of Section 11 RCT Act, 1987. The Chairman's approval was communicated by impugned order dated 19.1.98 and was communicated by Office Order dated 20.1.98 posting R-4 as Asst. Registrar purely on ad hoc basis.

6. Shri Begrar has contended that the post has been wrongly shown in the pay scale of Rs.2375-3750 and the actual pay scale is Rs.2000-3500. However, we were informed that consequent to a Court's order the pay scale of this post has since been revised to Rs.2375-3750. Even if ~~the~~ ^{an} incorrect pay scale has been entered in the impugned order ⁱⁿ ~~per se~~ that cannot be made as a ground to impugn the validity of the selection made.

7. In view of the fact that the post was an ex-cadre post, to which selection was ~~being~~ made purely on ad hoc basis, DOPT instructions dated 10.3.89 relied upon by Shri Begrar as well as the Railway Board's Rules Governing the Promotions of Subordinate Staff (annexed with the rejoinder) would not have any application in this case.

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8. No Govt. servant has ~~the~~ enforceable right for appointment to any post. He has ^{an} ~~an~~ only a legally enforceable right for consideration to such post, if he fulfils his eligibility conditions and it cannot be denied that the ~~also~~ applicants were ~~not~~ considered, but upon consideration of their records as well as the records of R-4 the Selection Board consisting of very senior officers, selected R-4 in preference to the applicants. Having been considered for selection and not being selected, applicants have no legally enforceable right to challenge that selection.

9. We have perused the relevant file containing the selection proceedings, and we are satisfied that the action of official Respondents in selecting R-4 for the post of Asst. Registrar is not illegal, arbitrary, discriminatory or malafide which would warrant any interference on our part.

10. The O.A. is dismissed and interim orders, if any stand vacated. No costs. ^{17 Hs}
No 245/98 and 445/98 also stand disposed of. ^{27. 2}

Lakshmi Swaminathan

Adige

(Mrs. LAKSHMI SWAMINATHAN) (S.R. ADIGE)
Member (J) Vice Chairman (A)
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