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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O. A. No. 2780/97

New Delhi: this the 21st day of July, 1998.

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

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

1. Madan Lal S/o Sh. Ganesh Dutt.
2. Ved Prakash S/o Shri Moti Ram.
3. Yad Prakash S/o Sh. Hardal.
4. Kishan Kumar S/o Sh. Datta Ram.
5. Amar Nath S/o Sh. Dayal Chand.
6. Megh Raj Singh S/o Sh. Lakhin Singh.
7. Prem Singh S/o Sh. Jasvir Singh.
8. Charam Bir S/o Sh. Chandu Lal.
9. Suresh Chand S/o Sh. Khroo Singh
10. Devi Prashad S/o Sh. Kachi Lal
11. Chanat Singh S/o Sh. Lal Singh
12. Gangarur S/o Sh. Bhawani Singh
13. Tarsem S/o Sh. Hari Ram.
14. Khem Chand S/o Sh. Baboo Ram. Applicants.

All are working as Skilled Fitter I & II
in Delhi Division and their particulars
and residential addresses are stated
in Annexure-A/9.

(By Advocate: Shri Yogesh Sharma)

Versus

Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Delhi Division,
Near New Delhi Railway Station,
New Delhi.

3. The Divisional Personnel Officer,
DRM Office,
Near New Delhi Railway Station,
New Delhi

..... Respondents

(By Advocate: Shri Rajeev Sharma)

7

JUDGMENT

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

Applicants impugn selections made against 36 posts of Apprentices TXR Grade against 40% quota vide orders dated 29.8.97 (Annexure-A1), as well as orders dated 18.11.97 (Annexure-A2), and prays that fresh selections be held.

2. Admittedly the selection process consists of a written test as well as viva-voce for which artisans working as Mistries/ skilled Gr.I and II are eligible. Respondents by letter dated 28.2.97 (Annexure-A4) invited applications for 25 posts (23 general and 2 reserved) specifying 21.3.97 as the last date for receipt of applications. As per respondents' reply, this selection was however, cancelled owing to wrong calculation of vacancies which were actually not 25 but 36 (34 General and 2 Reserved). Accordingly another letter issued on 11.8.97 (Annexure-A5) stating that the selection would now be held for 36 vacancies and eligible staff who had not earlier ^{applied} could apply upto 18.8.97 after which no application would be entertained and those who had earlier applied need not apply again, other conditions contained in letter dated 28.2.97 will be the same.

3. Applicants who had applied pursuant to the letter dated 28.2.97 took the written test, but could not qualify. Their grievance is that those who had become eligible even after 21.3.97 were allowed to appear in the selection and were even empanelled which it is alleged is illegal, arbitrary and malafide. Names of some of those ^{selected} are mentioned in para 4.6 of the OA.

4. We have heard applicants' counsel Shri Yogesh Sharma and respondents' counsel Shri Rajeev Sharma.

5. At the outset we notice that none of those selected have been impleaded in the O A although valuable rights have accrued to them.

6. Secondly we note that the letter dated 28.2.97 did not prescribed any date by which the qualification of Mistries/Skilled Gr.I and II had to be acquired for being eligible to participate in the selection. In Mrs. Rekha Chaturvedi Vs. Univ. of Rajasthan & U rs. 1993 (1) SLR 544 cited by the Punjab & Haryana High Court in Kabal Singh Vs. State of Punjab -1997 (3) SLR page 3 and relied upon by Shri Yogesh Sharma, the Hon'ble Supreme Court has held that unless the advertisement mentions a fixed date with reference to which the qualifications can be judged..... the only certain date for the scrutiny of the qualifications will be the last date for making the applications. In the present case respondents' letter dated 28.2.97 itself initially prescribed the last date for receiving applications as 21.3.97. Thereafter because of wrong calculation of vacancies the selections initiated on the basis of the letter dated 28.2.97 were cancelled, and fresh selections were initiated vide letter dated 11.8.97 in which the last date for receipt of applications was 18.8.97. The letter dated 11.8.97 never said that only those who had attained the requisite qualifications on or before 21.3.97 would be eligible to appear. Hence applying the ratio in Rekha Chaturvedi's case (Supra) respondents

committed no wrong in permitting those candidates to appear for selections who had acquired the prescribed qualifications ^{even if} after 21.3.97 but before 18.8.97. Hence Kabal Singh's judgment (Supra) does not help the applicants.

7. Shri Yogesh Sharma has also cited the ruling in V.K. Sangal Vs. UOI & Ors. 1995(2) SLR 695 but that ruling is against bunching of vacancies and enlarging the zone of consideration. In none of the grounds taken in the OA is there any allegation of bunching of vacancies and enlarging the zone of consideration. Hence this ruling also does not help the applicants. Respondents in their letter dated 10.8.97 have clearly stated that the vacancy position intimated vide their letter dated 28.2.97 had changed and the number of vacancies were not 25 but 36. This letter dated 11.8.97 has not been impugned by respondents and if respondents found that their earlier calculation of vacancies was wrong and corrected their error which necessitated initiation of selection afresh, it cannot be said that their action was illegal, arbitrary or malafide, more particularly when no malafides have been specifically alleged.

8. Further having participated in the selection and failing to qualify, the applicants cannot legally challenge the same.

9. The OA is therefore dismissed. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige
(S. R. ADIGE)
VICE CHAIRMAN(A).

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