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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO: 1652/2000

New Delhi, this the 17th day of October, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Shri Bajarang Bihari,
S/o Shri Ram Manohar, Train Lighting
Fitter Gr.II,
Under Junior Engineer (Train Lighting),
Northern Railway, Rohtak
 2. Shri Gyan Dass,
S/o Shri Gopal Dass, Wireman Gr.II,
Under Junior Engineer (Power),
Northern Railway,
Panipat
- 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

..... Respondents

(By Advocate : Sh. B.S. Jain appeared later)

O R D E R

BY HON'BLE MR. S.A.T. RIZVI, MEMBER (A) :

The applicants in this OA, one a Train Lighting Fitter Grade-III and the other a Wireman Grade-II, both eligible for being considered for appointment to the post of intermediate apprentice in the pay scale of Rs.1400-2300/- against 25% intermediate quota, appeared in the written test held for selection to the aforesaid post on 24.5.1997 and qualified therein. Accordingly, they were invited for

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viva voce test on 28.8.1997. Both appeared in the aforesaid test as well and had hoped that they will be finally selected and appointed as intermediate apprentice. The respondents, however, scrapped the aforesaid selection altogether by their letter dated 11/16th March, 1998 (Annexure-1). Aggrieved by the same, they have filed the present OA which is sought to be contested by the respondents by filing a reply, which has been followed in turn by a rejoinder filed by the applicants. The applicants have separately filed MA No. 162/2001 for production of the relevant files including the vigilance file. A reply thereto has also been filed by the respondents.

2. We have heard the learned counsel on either side and have perused the material placed on record.

3. In their reply, the respondents have taken the plea that the selection in question has not been annulled/scrapped arbitrarily. The decision to scrap the aforesaid selection was taken in the light of investigations made by the vigilance department of Northern Railways, and on the basis of the recommendations made by that department. The aforesaid decision cannot be termed malafide nor did it discriminate between the various persons who appeared at the aforesaid interview/viva voce test. The impugned letter dated 11/16th March, 199 affects all the persons equally. An administrative decision which is neither malafide nor discriminatory cannot be

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questioned, is one of the main pleas advanced on behalf of the respondents.

4. The applicants had, no doubt, qualified in the written test and had also thereafter appeared at the viva voce test held on 28.8.1997. However, the outcome of the viva voce test held separately, nor the final outcome of the selection process was made known/announced. The applicants are, therefore, not in a position to contend that they had been finally selected and, but for the scrapping of the aforesaid selection as above, they would necessarily have been appointed. The applicants undoubtedly had a right to be considered for appointment to the post in question, but they cannot have a right to be appointed to the said post. That is, in brief, the settled position. In this view of the matter, the applicants are prevented from raising a grievance in the matter of their non-appointment to the post of intermediate apprentice.

5. In support of what has been asserted in the above paragraphs, the respondents have relied on Shankarsan Dash v. Union of India decided by the Supreme Court on 30th April, 1991, and reproduced in 1992 (1) S.L.J. Vol.43 page 7, wherein the Supreme Court has held as follows.

"7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily, the notification merely

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amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court....." (emphasis supplied)

6. In support of his contention that the aforesaid selection could not have been scrapped by issuing a bald letter altogether devoid of reasoning, the learned counsel appearing on behalf of the applicants has relied on the order passed by this Tribunal in OA No. 1635/2000 and another which led to passing of a speaking order by the concerned authority. A copy of the order passed by the said authority dated 14.5.2001 was placed before us by the learned counsel for perusal. The same has been taken on record. On going through the same, we find that in that case the applicants had made several allegations against the manner in which written test had been conducted, and having regard to the same, the Tribunal had occasion to direct the concerned authority to consider the allegations contained in those OAs and to pass a speaking order thereon. The aforesaid order dated 14.5.2001 is the outcome of the aforesaid direction given by this Tribunal. Clearly, on facts the aforesaid case stands on a different footing altogether, and on that basis alone we are not required to consider favourably the plea that in the

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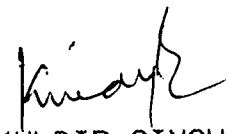
present OA also the respondent-authority should be directed to pass a speaking order scrapping the aforesaid selection.

7. The learned counsel has next proceeded to rely on 1970 (1) SCC 764 M/s. Mahabir Prasad Santosh Kumar v. State of U.P. and Others wherein it has been laid down that "recording of reasons in support of a decision on a claim by a quasi-judicial authority ensures that the decision is reached according to law and is not the result of caprice, whim or fancy or expediency. A party to the dispute is ordinarily entitled to know the ground on which the authority has rejected his claim". In the present case, we find the applicants have no right to be appointed to the post of intermediate apprentice. They have a right to be considered and they have been considered. The impugned letter dated 11/16th March, 1998 merely annuls the selection proceedings. The same cannot be said to have rejected the claim of the applicants. Moreover, by way of reason, the respondent-authority has submitted that the selection process in question had to be annulled as a result of investigation made by the Department of Vigilance and in the light of recommendations made by that department. Viewed thus, the applicants cannot be said to have succeeded in making out a case in their favour, ^{made} because the fact that vigilance investigation was indeed ^{made} has not been disputed by the applicants. For these very reasons we also find that no useful purpose would have been served by summoning the relevant files.

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8. For all the reasons mentioned in the preceding paragraphs, the OA is found to be devoid of merit. The same is dismissed. No costs.


(S.A.T. RIZVI)
MEMBER(A)


(KULDIP SINGH)
MEMBER (J)

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