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Central Administrative Tribunal
Principal Bench

O.A. No. 1681 of 2000

New Delhi, dated this the 24th January, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Abdul Rahman Khan,
S/o Shri Khurshid Ahmed Khan,
KK-92,
Ghaziabad
(By Advocate: Shri B.S. Mainee)

Applicant.

Versus

Union of India
through

1. The Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhawan,
New Delhi.

2. The General Manager(P)
North Eastern Railway,
Gorakhpur.

3. The Principal,
Senior Secondary School,
North Eastern Railway,
Gorakhpur.

4. The Education Officer(Vocational)
C.B.S.E.
New Delhi.

(By Advocate: Shri B.S. Jain)

Respondents

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 29.12.99(Annexure.A-1) and seeks a direction to respondents to offer him an appointment as Commercial Clerk/Ticket Collector.

2. In November, 1990 Railway Recruitment Board notified a Full Time Two Year Vocational Course in "Railway Commercial" at plus two level with effect from academic year 1991-92. This Vocational Course

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was recognised by CBSE and on successful completion of the course, the students were to be normally appointed as Commercial Clerks/Ticket Collectors after passing medical examination etc. subject to their attaining the minimum standard in the plus two examination. Those who passed the entrance examination and qualified for admission were to be admitted to the two year Vocational Course in Railway Commercial from the academic year 1991-92, provided they pass the 10th Class examination with least 50% marks in the aggregate. The scheme was extended to subsequent academic years.

3. Railway Recruitment Board, Gorakhpur called for applications vide Employment Notice dated 12.11.94(Annexure.A3) and applicant duly applied and was selected by Railway Recruitment Board, Gorakhpur and was admitted to NE Railway Senior Secondary School on 14.7.95.

4 By letter dated 20.5.94 (Annexe.A-5), Railway Board made it clear that students who had passed the vocational course with at least 55% marks (45% in case of SC/ST) in "Railway Commercial Working" as well as in the aggregate were to be offered appointment in the Railways as Commercial Clerks /Ticket Collectors. It was clarified that appointment may be offered to candidates who were either placed under compartment or who could not secure the prescribed percentage of marks, on their

clearing the compartment and securing the prescribed percentage in the subsequent chances given by CBSE for taking the examination.

5. However, subsequently the Monitoring Committee on Vocational course in "Railway Commercial" in its meeting held on 17.10.95 took a policy decision that a student who had failed or was placed in compartment or who had not obtained the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year, and not beyond. This policy decision was circulated by letter dated 27.10.95(copy annexed with counter reply to OA).

6. As the chances for improvement etc. were limited to one chance vide police decision dated 17.10.95, and applicant on his own showing vide para 4.8 of the OA, could not secure the requisite percentage of marks in CBSE 1997, nor could secure the requisite percentage of marks in the next academic year 1998 and could secure the same only in the year thereafter i.e. in 1999, Respondents have denied him appointment as Commercial Clerk/Ticket Collector against which the present OA has been filed.

7. Applicant's counsel Shri Mainee has contended that after applicant had been selected by the Railway Recruitment Board, Gorakhpur for the aforesaid vocational course in 1995-96 in terms of the 1990

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✓ Scheme which was further ⁴elaborated upon by Railway Board's letter dated 20.5.94 in which chances for improvement were not limited to one chance, Respondents could not adversely affect his case by limiting his chances for improvement to one, as the same had retrospective effect, which was arbitrary and violative of Articles 14 and 16 of the Constitution.

8. We are unable to agree with this contention and we note that this very contention was considered and decisively negatived by a Coordinate Division Bench of this Tribunal by order dated 31.12.2001 in OA No.1773/2001 Abdul Sekh Vs. UOI & Ors. In para 9 of that order it has been observed that the mere selection of the applicant for admission to the Vocational Course did not give him any right for appointment to the post of Commercial Clerk/Ticket Collector. Appointments to these posts were subject to certain conditions and this right would have become available to that applicant only on fulfilment of those conditions i.e. securing of particular percentage of marks in the exam. of 10+2. The Monitoring Committee in its policy decision dated 17.10.95 had only modified the conditions to the extent of restricting the chances for improvement only to one chance, which did not take away any right which may have vested in the applicant. Nothing has been shown to us to establish that the aforesaid ruling in Abdul Sekh's case (supra) has been stayed, set aside or modified, and we respectfully agree with its conclusions. 2

9. Shri Mainee also contended that Railway Board's letter dated 27.10.95 only circulated the minutes of the Monitoring Committee on Vocational Course in Railway Commercial and did not amount to a Govt. decision but it is clear from perusal of para 1.2 of the minutes that it was a policy decision taken in the Ministry of Railways in which the Chairman, CBSE was also a party.

10. Shri Mainee has cited certain rulings namely SLJ 1997(1)SC 442; SLJ 1998 (3) SC 76; SLJ 1998 (1) SC 195 . We have perused those rulings carefully and are satisfied that they do not advance the claim of the applicant in the present case which is squarely hit the by ratio of the Tribunal's order in Abdul Sekh's case (supra), with which we as a Coordinate Division Bench fully agree.

11. In the light of the foregoing, the OA warrants no interference and is dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

An/dige
(S.R. Adige)
Vice Chairman(A)

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