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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2138/2000

New Delhi: this the 26th day of JULY, 2001.

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Kumari Nahida (Minor),
D/o Sh. Niazahmad,

R/o 130/2, DCM Railway Colony,
Delhi-6

through her father Sh. Niazahmad. Applicant.

(By Advocate: Shri Yogesh Sharma)

Versus

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

2. The Dy. Director Estt. (Welfare),
Railway Board,
Ministry of Railway,
Rail Bhawan,
New Delhi.

.... Respondents.

(By Advocate: Shri Rajinder Khattar)

ORDER

S.R. Adige, VC(A):

Applicant impugns respondents' order dated 22.2.2000 (Annexure-A/1) and seeks appointment to the post of Commercial Clerk with all consequential benefits.

2. Pleadings reveal that Railway Ministry introduced a 2 year Vocational Course in Commercial Branch of Indian Railways in 1991-92 which was extended to 9 schools, one at the headquarters of each zonal Railway in 1992-93. As per this scheme outlined in Railway Board Circular dated 28.7.92 students who passed XII Exam. conducted by CBSE with the prescribed level of performance would be appointed as Commercial Clerks (Rs. 975-1540) or as Ticket Collectors (Rs. 950-1500) subject to medical exam. and

other formalities.

3. In 1995 Railway Recruitment Board, Allahabad invited applications for the aforesaid 2 year vocational course on Railway Commercial commencing 1996-97. Upon clearing the written exam. on 11.2.96, and the interview on 23.5.96, applicant joined the course for the academic year 1996-97. She cleared all the papers for that year, and was admitted to the 2nd year of the 2 year Vocational Course, 1997-98. She failed in all the papers, as a result of which she had to repeat the second year's course in the next year i.e. 1998-99.

4. In the academic year 1998-99 she cleared 5 out of 6 papers as per results declared on 2.6.99 (copy taken on record) and got a compartment in 1 paper i.e. Economics. She appeared in that paper and cleared the same as per result declared on 31.8.99 (copy taken on record).

5. As per para 2.3 of Railway Board's letter dated 27.10.95 containing the minutes of the meeting of the Monitory Committee of this Vocational Course which spells out the guidelines for its administration.

"A student who has failed or has been placed in compartment or who did not obtain 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 no later."

6. Railway Board in their letter dated 3.2.2000 (Ann-A4) had asked CBSE to clarify whether a student who got compartment in the month of June of an academic year but passed the compartment exam. held in August of the same year was to be treated as passing in main exam. in the same

academic year or otherwise.

7. CBSE in their reply dated 4.2.2000 (copy on record) have clearly stated that compartmental exam. is a part of the main exam. of the same academic year in which annual result pass/compartment/fail have been declared. Accordingly the main exam. held in March, 2000 of academic year 1999-2000, the result declared in May/June, 2000 and compartment exam. held in August, 2000 are a part of the same academic year 1999-2000.

8. Respondents in their reply however contend that as applicant took 3 years to pass the 2 year course and that too in 3 chances, she is not eligible for appointment.

9. We have heard both sides and considered the matter carefully.

10. Admittedly, the vocational course is of 2 years. As per para 2.3 of respondents' circular dated 27.10.95, which respondents also rely on, if applicant had cleared the first year 1996-97 and the second year 1997-98 by June, 1998 itself she would have been held to have cleared the course in the first attempt. However, she did not do so, and had to sit for the second years papers in the next academic year i.e. 1998-99 in which she cleared 5 of the 6 papers in the main exam. whose results were declared in June, 1999 and cleared the last paper (in which she had obtained compartment) in August, 1999.

11. When respondents are following the CBSE syllabus and examination system, and CBSE have clearly advised in their reply dated 4.2.2000 that the compartment exam. held in August, is a part of the main examination of that academic year, it follows that as applicant had cleared the compartment paper in August, 1999, she must

be treated to have cleared the main exam. of the academic year 1998-99 which is the academic year next to the one of 1997-98, and thus fulfills the condition prescribed in para 2.3 of respondents' own circular dated 27.10.95.

12. In the result, the OA succeeds and is allowed to the extent that impugned order dated 22.2.2000 is quashed and set aside. Applicant should be considered for appointment as Commercial Clerk/Ticket Collector, on the basis that she has fulfilled the condition prescribed in para 2.3 of respondents' own Circular dated 27.10.95 and appointment letter should be issued to her if she is otherwise found eligible and clears the prescribed preappointment formalities. These ^{directions} ~~conditions~~ should be implemented within 2 months from the date of receipt of a copy of this order. No costs.

A. Veda Valli

(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige

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

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