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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2705/2000

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

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Shri Naresh Kumar (Roll No. 30012)
R/o H.No.99, Kot Gaon, Phatak, Hikate Ariya
Nagar, Ghaziabad.
2. Shri Asif Soze Ansari (RollNo. 4364)
R/o H.No.222, Kaila Road, Near Lalten Factory
Ghaziabad - 201 001.
3. Shri Mohd. Irshad, (Roll No.24466)
R/o H.No. 291/C, Kaila Road, behind
Sakur General Store, Ghaziabad - 201 001.
4. Shri Ajay Kumar Singh (Roll No.16997)
R/o H.No. D-236, Sector-12, Vijay Nagar
Ghaziabad - 201 001.

... Applicants

(By Advocate Shri K.K.Patel)

V E R D I C T

1. Union of India : through
The Secretary
Railway Board, Railway Bhawan
New Delhi.
2. The Dy. Secretary (G)
Railway Board, Railway Bhavan
New Delhi.

... Respondents

(By Shri E.X.Joseph, Sr. Advocate with
Shri Rajender Khatter)

O R D E R

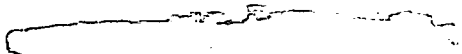
BY HON'BLE SHRI GOVINDAN S. TAMPI.

The Challenge in this OA is directed against the recruitment process conducted by the respondents for filling up the posts of Group "D" in alleged violation of Statutory Rules of Railway Board as well as Article 16 of the Constitution of India.


2. Heard Shri K.K.Patel learned counsel for the applicant and Shri E.X. Joseph learned counsel, along with Sh. Rajinder Khatter, for the respondents.

3. Facts as brought out in the pleadings are, that Ministry of Railways published an advertisement in Employment News of 18-24 March, 2000, for recruitment to the posts of Group "D" staff like Messenger, Cleaners, Mali, Khallasi Farash, Telecom Khallasi etc. from Indian citizens who have passed 8th standard and of the age group of 18-27 years with relaxation for the SC/ST/OBC. All the four applicants applied for the said post, and the respondents by their letter dated 27.9.2000, directed them to send a resume in hundred words on subjects prescribed in the said letter. The applicants did the same, but were not called for the interview while a number of others were so called. In their representation dated 27.10.2000 they alleged that the Authorities had adopted a policy of pick and choose, unfair means and discriminated against the applicants. It was also alleged that they were discriminated on the ground of place of residence. These representations have not been replied to and the recruitment process was continuing. Hence this application.

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4. According to the applicants the procedure for selection adopted by the Railways was in clear violation of Rule 179 of IREM Volume I Article 10(i) & (ii) the Constitution. The Recruitment procedure adopted by Railway Boards letter No. 28/ERB 5/3/29 of 28.9.99 has also not been followed by them. The applicants' right to employment has been violated by the respondents. 

5. Interim relief directing that 4 posts may be kept vacant till the final disposal of the OA was granted on 29.12.2000, which continues. According to Shri K.K. Patel, learned counsel for the applicants all the applicants were eligible for being considered and still the respondents have taken a view to restrict the selection and appointment to those who belonged to Delhi and the National Capital Region and had denied opportunity to the applicants which was totally improper. He states that the decision of the Hon'ble Supreme Court in the matter of Excise Superintendent, Malkapatnam, Krishna District, andhra Pradesh Vs. K.B.N. Visweshwara Rao and Ors. 1990(4) SCC 216, Arun Kumar Rout Vs. State of Bihar (1998 (9) SCC 71) and C. Channabasavaiah Vs. State of Mysore (AIR 1965 SC 1293), all referred to restricting selections to regions and classes, which was improper. The benefit of the above decisions should be extended to the applicants and they should be considered for



selection, pleads Sh. Patel, learned counsel for the applicant.

6. Replying on behalf of the respondents, Shri E. X. Joseph learned Senior Counsel points out that the advertisement which appeared in Employment News in March 2000 related to filling up of 59 Group "D" posts, all of which were in Railway Board, Rail Bhawan New Delhi. As nearly 4.5 lakhs of applications were received, a method had to be arrived at for scrutinising and short listing of the applications. This was to be done by adopting a reasonable and practical solution like restricting recruitment to those from Employment Exchange, Delhi and candidates of Delhi and National Capital Region. By the adoption of this procedure, the number of candidates was brought down to about 35,000, which included all the applicants. Thereafter evaluation of the resume/essay written by the candidates was taken up. Following the evaluation, the answers were classified into A, B, C & D in the descending order of merit, and those who secured "A", "B" grades, totalling 1989 candidates were called for the oral test. This process was undertaken in a correct, proper and fair manner. The applicants were not called for the test as their performance did not come to the A & B categories. The allegation by the applicants that procedure adopted by the respondents

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was malafide and illegal was clearly erroneous and unfair. It is further stressed that Rule 179 of IREN refers to the appointment of class IV employees in the Zonal Railways, and it was not at all applicable to the Railway Board and the instant case related to filling up the Group 'D' posts in the Railway Board. No Recruitment Rules have been bypassed and the selection was made by a Committee consisting with three Senior Scale officers. According to Shri E.A. Joseph, learned Sr. Counsel, the respondents had to resort to selection process, keeping in view the doctrine of impossibility of performance. Adoption of the above was permitted by the judgement of the Hon'ble Supreme Court in the cases of DDA & Another Vs. Ambitious Enterprises (1997 (6) SCC 420), M/P. Public Service Commission Vs Navneet Kumar Poddar & Anr. (1994 (6) SCC 203) and State of Rajasthan & Anr. Vs. ^{Shamsher} Singh & ORs. (AIR 1985 SC 1082). The action of the respondents was faultless and proper and deserved to be endorsed, according to the learned Sr. counsel.

7. We have carefully considered the matter. We find that in this case the respondents had to deal with a mammoth number of applications running over four lakhs and they were forced to reduce the same to a manageable number. Keeping in mind the fact that posts to be filled up only concerned the Railway Board's office, ^{New Delhi} it was decided to restrict the

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selection to those from Delhi and the National Capital Territory. This brought down the number of applications to about 35000. This however, did not adversely affect the applicants as all the four of them found places in the short-listed group. Thereafter, in the evaluation of the written resume given by the shortlisted candidates only those whose performance was awarded the grades 'A' & 'B' were called for the oral test while those were categorised as 'C' and 'D' had to be discarded. By this, the number of persons for consideration for selection came to 1989. The applicants, unluckily for themselves could not obtain the higher gradation and were therefore not called for the oral test. The procedure adopted by respondents cannot in anyway be considered as irregular or improper, as it was a rational measure. Bringing down the total number of candidates from over four lakhs to 1989 was a onerous task and the respondents have accomplished it in a careful and proper manner. To describe it as arbitrary, irrational or discriminatory represents incorrect appreciation of ground realities. The rationale of the procedure adopted by the respondents is clearly protected by the decision of Hon'ble Supreme Court in M.P. Public Service Commission Vs. Navneet Kumar Poddar and another and 2 other related Civil Appeals [1994 (6) SCC 293] wherein the Hon'ble Apex Court has approved the criterion for shortlisting of the candidates adopted by the MP Public Service Commission and has observed as below:

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" Where the selection is to be made purely on the basis of interview, if the applications for such posts are enormous in number with reference to the number of posts available to be filled up, then the Commission or the Selection Board has no option but to short-list such applicants on some rational and reasonable basis. Where selections are to be made only on the basis of interview, then such interviews/viva voce tests must be carried out in a thorough and scientific manner in order to arrive at a fair and satisfactory evaluation of the personality of the candidate. The sole purpose of holding interview is to search and select the best among the applicants. It would be impossible to carry out a satisfactory viva voce test if large number of candidates are interviewed each day till all the applicants who had been found to be eligible on basis of the criterion and qualifications prescribed are interviewed. If large number of applicants are called for interview in respect of four posts, the interview is then bound to be casual and superficial because of the constraint. The members of the Commission shall not be in a position to assess properly the candidates who appear before them for interview. It is necessary to fix the limit of the applicants who should be called for interview where there is no written test, on some rational and objective basis so that personality and merit of the persons who are called for interview are properly assessed and evaluated. This decision regarding short-listing the number of candidates who have applied for the post must be based not on any extraneous consideration, but only to aid and help the process of selection of the best candidates among the applicants for the post in question. This process of short-listing shall not amount to altering or substituting the eligibility criteria given in statutory rules or prospectus. In substance and reality, this process of short-listing is part of the process of selection. Once the applications are received and the Selection Board or the Commission applies its mind to evolve any rational and reasonable basis, on which the list of applicants should be short-listed, the process of selection commences. The Selection Board or the Commission has to decide as to what procedure is to be followed for selecting the best candidates from amongst the applicants. In most of the services, screening tests or written tests have been introduced to limit the number of the candidates who have to be called for interview. Such screening tests or written tests have been provided in the concerned statutes or prospectus which govern the selection of the candidates. But where the selection is to be made only on basis of interview, the Commission or the Selection Board can adopt any rational procedure to fix the number of candidates who should be called for interview."

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Similar proposition emerges from the decision of the Hon'ble Supreme Court in the case of DDA etc. Vs. M/s Ambitious Enterprises (I.R. 1977 Supreme Court 3263) as well.

8. What has happened in the instant case is that keeping in mind the very large and unmanageable number of applicants who had come forward, the respondents had short-listed the candidates restricting them to those coming from Delhi and National Capital Region as the vacancies were meant for the Railway Board's office stationed at New Delhi. The same cannot be considered as any irrational basis for shortlisting. Even otherwise the applicants cannot have any grievance with it, as they were among those who were short-listed. They could not be called for the final viva as they did not qualify in the written test which was in the form of a resume/essay which had to be submitted by them. irrespective to the given by them. As pointed out by the respondents the resume written by nearly 35000 individuals were evaluated and those who were categorised as 'A' & 'B' were called for the viva and they numbered 1989. The applicants belonged to the Category who were assessed as 'C' and 'D' and therefore they could not be called. So obviously what has come in the way of their being called for the viva is their not qualifying in the written performance — the resume and not the decision by the respondents to restrict the selection to the candidates from the National Capital Region. That being the case, none of

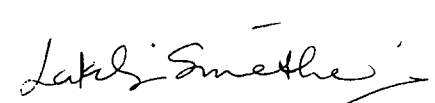
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the decisions cited by the applicants, taking exception to the restriction on the basis of the regions, which we have perused with care, would come to their aid. They are not therefore being specifically referred to here. The respondents while adopting a rational and objective criterion for short-listing the candidates to a manageable number, had acted properly and therefore they cannot be ^{assailed} ~~assailed~~. They have also not acted in any manner violating the Constitution and averments of the applicant to the contrary are wrong.

9. It is also seen that the respondents have followed in spirit the recruitment procedure circulated by their letter No. 98/ERB-5/3/29 dated 28.9.99, as amended on 26.11.99 by having the written test and the viva, the written being in the form of a resume. The applicants having failed in the written test cannot claim that they should have been called for the viva. The pleas made by the applicants are not supported by facts or law and have to be repelled.

10. In the above ^{Viva} matter we are convinced that ^{out} ~~the~~ applicants have not made any case for our interference. The O.A., having no merits fails and is accordingly dismissed. Interim relief granted also is vacated. No costs.

(Sd/-) 
(Gopalan S. Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (I)

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