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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A.No. 1718/1988

New Delhi this the 24th Day of November, 1993

The Hon'ble Mr. B.S. Hegde, Member(J)

The Hon'ble Mr. P.T.Thiruvengadam, Member(A)

Mohd.Athar,
s/o Sh.Late Khalid Ahmad,
R/o 437/2/2/, Sadiq Nagar,
New Delhi

..... Applicant

(None for the applicant)

Versus

1. General Manager,
Northern Railway, Baroda House,
New Delhi

2. Member Secretary,
Railway Recruitment Board,
105, 9-B, Chandigarh

3. Union of India, through
Secretary, Ministry of
Railway, Govt.of India.

..... Respondents

(By Advocate Sh. O.P.Kshatriya)

ORDER(ORAL)

(Delivered by Sh. B.S. Hegde, Member(J)

This application is filed under Section 19

of the Administrative Tribunals Act, 1985 against the rejection of the candidature of the applicant for the post of Law Assistant in the Northern Railways, in response to Employment Notice No. RPB/CDG /2 -87 dated 24-9-87 published in the Employment News dated 10.10.1987.

2. His contention is that he appeared in the written test conducted by the respondent No.2 on 28.2.1988, passed the same and thereafter appeared in the interview on 26.4.1988 at Chandigarh. Nevertheless, he has not been selected. He further submits that the Selection Committee appointed by the respondent No.2 committed a series of illegal acts in the manner of recruitment at various stages, such as breach, regarding the documentary proof of required experience which was one of the most vital requirements of the respondent No.2. But those who did not possess authentic experience certificates, were selected and the applicant being the only candidate having the authentic experience certificate was not selected.

3. His contention is that he has completed all the formalities of respondent No.2, submitted

photo-copies of experience certificate and other particulars and he was duly eligible for the said post. He further averred that 10 candidates were called for interview who did not submit any proof of experience as Advocate of three years standing and the applications of these candidates thus become invalid and incomplete in terms of conditions of the Employment Notice issued by the respondent No.2. Nevertheless, respondents did not reject these incomplete and invalid applications at the time of scrutiny or at the time of interview etc. Accordingly, he prayed that the respondents be directed to appoint the applicant as Law Assistant w.e.f. May, 1988 for all purposes, so that the injustice done to the applicant may be compensated, as every violation of fundamental right and legal right has to be compensated.

4. The respondents in their reply have denied the averments made in the O.A. in para 7 of the reply stating that the certificate issued by the Bar Counsel with regard to enrolment and relevant dates

indicated therein with regard to the date of registration and supported by the Bar Association with their certificates of practices are sufficient ^{for} proofs being accepted and thus the applicant's contention is not tenable. They further submit that though the applicant was called for interview alongwith other candidates, who were to be selected after the oral viva-voce test, ^{keeping} in view the respective merit off the candidates out of 11 candidates, only 4 have been selected. They also averred that a total of 11 candidates appeared for interview and on the basis of marks obtained in the written test and interview, the applicant was placed at S.No.10 amongst them in the order of merit, therefore, the question of appointing him to the post of Law Assistant does not arise, the respective certificates, competent authority has already scrutinised and after satisfying themselves the candidates were called for interview.

5. We have heard the learned counsel for the respondents, Sh. O.P.Kshatriya, ^{None} for the applicant ^{was present.} The short question for consideration is whether the applicant has any inherent right to be

appointed to the post of Law Assistant. It is true, that he has appeared in written test and viva-voce test, pursuant to the advertisement by the Railway Board; that by itself does not entitle the applicant to be absorbed in the post. Courts have held that even ~~if~~ a candidate whose name ^{is} appearing in the merit list on the basis of competitive examination does not acquire any indispensable right of appointment as a Government servant, even if a vacancy exists. In the instant case, the applicant had been given due opportunity to appear in the written test and also to appear in the viva-voce test. Nevertheless, he has not been selected, ^{based} depending on his performance both written test as well as viva-voce test vis-a-vis other candidates appearing for the same. It is for the selection body to choose, keeping in view of the merit of the respective candidates and accordingly, they appointed 4 candidates out of 11 candidates appeared for the same. As stated earlier, the mere fact of appearing in the examination will not entitle a candidate with a legal right to seek mandamus for directing the

authority concerned to make his appointment.

It is misconception and further there is no other material on record to show that he has been singled out except stating that other candidates did not fulfil the required experience and other particulars. Such a contention is not tenable and sustainable in Law.

6. - In the facts and circumstances of the case, we are of the view, that there is no merit in this case. The same is dismissed. No order as to costs.

P. T. Thiruvengadam
(P.T.Thiruvengadam)
Member(A)

B.S. Hegde
(B.S. Hegde) 24/11/93
Member(J)

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