

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00982/2014 with MA Nos. 666/2014 & 849/2014

HYDERABAD, this the 15th day of February, 2021

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



Amarender Ganjii S/o Vishnu Murthy Ganji
Aged 27 years, Occ : Ex. Contract Health Inspector /
SC Rly/ Secunderabad Station, R/o Marriguda Post
& Mandal, Nalgonda Dist-Pin-508245-Telangana State. ...Applicant

(By Advocate : Mr. B. Rajesh Kumar)

Vs.

1. Union of India, Ministry of Railways,
Represented by it's The Chairman,
Railway Board, Ministry of Railways - New Delhi.
2. The Chairman, Railway Recruitment Board,
South Lallaguda – Secunderabad.
3. The General Manager,
South Central Railway, Rail Nilayam,
Secunderabad.
4. The Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad - AP.
5. The General Manager, East Coast Railway,
Chandrasekharpur, Bhubaneshwar.
6. G. Kranthi Kumar S/o G. Rajeswara Rao,
D.O.B : 28.06.1980, HI & MI, O/o CMS,
Railway Hospital, Chilakalguda, SC Railway,
Hyderabad Division.
7. Suman Kumar S/o Bachu Bihari Gupta,
D.O.B 04.10.1983,
HI & MI, O/o CMS, Railway Hospital,
Vijayawada, A.P.
8. Rajesh Kumar Ranjan S/o Nanda Kishore Prasad,
D.O.B 18.1.83, HI & MI, O/o CMS, Railway
Hospital, Vijayawada – AP.

9.Raja Pandi.V S/o Venkidaswamy, DOB 21.5.85, HI & MI, SC Rlys, O/o CMS, Railway Hospital, Vijayawada-AP.

10.S.Rudra Kishore Sela S/o Mallikharjuna Rao, DOB 13.05.1985, HIMI O/o CMS, Railway Hospital, SC Rlys, Vijayawada.

11.Vasanth. T. S/o T.Thanon Joyon, DOB 3.06.1987, HI & MI, O/o CMS, Railway Hospital, Guntakal, AP.

12.Koushal Kishore, DOB – NIL, HI & MI, Railway Hospital, O/o CMS, East Coast Railway, Waltair Division.

13. Pankaj Kumar Tyagi, DOB – NIL, HI& MI, O/o CMS, Railway Hospital East Coast Railway, Waltair, Visakhapatnam.

14. Prasada Rao Tadimalla, DOB – NIL, HI & MI, O/o CMS, Railway Hospital, East Coast Railway, Visakhapatnam.

15.Jitindra Kumar, DOB – NIL, HI & MI, Railway Hospital, O/o CMS, East Coast Railway, Visakhapatnam, AP.Respondents

(By Advocate : Mr. V. V. N. Narasimham, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OA is filed by the applicant for a direction to the respondents to consider him for appointment to the post of Health & Malaria Inspector Grade III.

3. Brief facts of the case are that respondents have issued notification 5/2012 dated 13.10.2012 for selecting candidates for the post of Health and Malaria Inspectors Grade Gr. III and declared the results on 13.2.2014 & 15.7.2014. Applicant claims that some of the candidates like the private respondents were selected, who were not eligible as per instructions of R-1 dated 4.6.2008. The minimum educational qualifications prescribed is B.Sc. Chemistry plus one year Diploma in Health/ Sanitary Inspector or 1 year NTC (National Trade Certificate) in Health and Sanitary Inspector awarded by the National Council for Vocational Training. Aggrieved over the improper selection, the OA is filed.

4. The contentions of the applicant are that R2 and R-4 have not followed the instructions issued by R-1 in selecting candidates. He alleges corruption in the selection. Modified Recruitment Rules in regard to educational qualifications were issued on 18.3.2014 (RBE-27/2014) without cancelling the instructions communicated vide letter dated 4.6.2008. R-2 forwarded list of selected candidates to RRB Bhubhaneswar without jurisdiction. Rules should not be changed when the selection is in process. Four candidates selected against IRCEN 6/ 2010 were removed from the select list after production of the certificates, though initially



selected by R-2 by after proper verification. Para 5 of CEN 5/2012 has not been adhered to. Applicant submitted certificate as per railway board letter dated 3.4.2001 and 30.5.2008 which was rejected by R-2 without proper basis. Applicant cited the judgment of Hon Madras bench of this Tribunal in support of his contention.



5. Applicant filed MA 666/2014 stating that the respondents have not issued any correction slip to IREM in regard to the changes in the certificates to be submitted. Railway Board order dated 18.3.2014 applies to subsequent notifications. R-1 admitted in letter dated 28.8.2014 that only those prescribed qualifications have to be selected. R-2 is responsible for proper verification and selection of candidates to posts advertised.

6. Respondents state that results in respect of the notification No.5/2012 for the post of Health and Malaria Inspector were posted in the respondents website on 2.8.2013. Applicant secured 39% and hence, was not selected in the OBC/OC category. Offer letters were issued on 13.2.2014 to 23 selected candidates pertaining to SCR Zone, 4 from ECR and 1 to RRB Bhubhaneswar. Among the selected candidates, the 10 private respondents figure, they too were issued offer letters after verifying that they fulfilled the conditions laid in the notification No.5/2012. Later, Railway Board has issued a letter dated 18.3.2014 clarifying that the Diploma certificate issued in Health and Sanitary Inspector, by the Vinayaka Mission University, Salem is not valid for the post of Health and Malaria Inspector. One of the Private respondents with the Diploma from Vinayaka Mission University, was selected prior to the Railway Board order cited. Railway Board has reiterated vide letter dated 28.8.2014 that those with requisite qualifications

only have to be selected and selections made in the past need not be opened.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about the selection to the posts of Health and Malaria Inspector advertised by the respondents vide notification No.5/2012 dated 13.10.2012. Results were announced and displayed in the respondents website on 2.8.2013. Applicant secured 39% with a rank of 168 in the OBC category. The last selected candidate Sri T. Prasada Rao, from the OBC category got 56.67% with a rank of 35 and the last selected candidate from the UR category secured 57% with a rank of 32. The applicant having secured a less percentage of 39% was, thus, not selected. After participating in the exam and failing in the same, the applicant is pointing out certain deficiencies in the selection process, which is impermissible under law, as observed by the Hon'ble High Court of Punjab and Haryana in **Kavita Kumari vs State of Haryana and Others** on 27 August, 2019 in CWP-22720-2019 (O&M) by relying on the verdict of Hon'ble Supreme Court judgment, as under:

2. The petitioner after having participated in the selection process under the Rules cannot be permitted to challenge the same in view of the law laid down by the Hon'ble Apex Court in the case of Madras Institute of Development Studies and another Vs K. Sivasubramaniyan and others (2016) 1 SCC 454 holding that once participated in the selection 1 of 2 process, an applicant cannot be permitted to take a u-turn only because he could not qualify and was unsuccessful.

II. The contention made by the applicant that invalid qualifications have been accepted by R-2 have been properly answered based on the Railway Board orders dated 18.3.2014 and 28.8.2014. In fact, respondents have explained that one of the private respondents namely Sri

Jitender Kumar was selected based on certificate issued by Vinayaka Mission University, Salem on 13.2.2014 before the invalidation of the certificate by the Railway Board vide its order dated 18.3.2014. Besides, the Railway Board order dated 28.8.2014, makes it clear that selections made in the past need not be reopened based on subsequent clarifications. Conducting exams and allotting candidate to different RRBs by each RRB is a policy matter of the respondents organization, which cannot be questioned. The judgment of the Hon'ble Madras Bench cited by the applicant would not of any assistance, in view of the observation of the superior judicial fora cited supra, concerning examinations. Other contentions made have also been gone through and found them to be irrelevant to the dispute and therefore, have not been commented upon.

III. Essentially, the applicant participated in the exam against the notification and failed. As per the Hon'ble Apex Court verdict cited supra, the applicant, after failing in the exam, has no right to question the selection process. The respondents have acted as per the instructions received from time to time.

IV. Hence, in view of the aforesaid circumstances, we do not find any merit in the case. Therefore, the OA is dismissed, with no order as to costs. Accordingly, the MAs stand closed.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

evr