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CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA No.2616/90

New Delhi this the 23rd Day of March, 1995.

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Smt. Anusuya,
W/o Sh. Suresh Kumar Sharma
Accounts Assistant (Store
Accounts Branch),
Northern Railway,
Headquarter Office,
Baroda House,
New Delhi.

...Applicant

(By Advocate Sh. B.S. Mainee)

Versus

Union of India :

1. The Secretary (Accounts),
Railway Board,
Rail Bhawan,
New Delhi.

2. The General Manager (Accounts),
Northern Railway,
Baroda House,
New Delhi.

3. The Dy. Chief Accounts
Officer (General),
Northern Railway,
Accounts Office,
Baroda House,
New Delhi.

...Respondents

(By Advocate Sh. Romesh Gautam, though none present)

ORDER((Oral)

Hon'ble Mr. N.V. Krishnan:-

The applicant appeared in the Appendix-III Examination. Admittedly, in the application, the applicant did not indicate that he belonged either to a Scheduled Caste or to a Scheduled Tribe, meaning thereby that he belonged to the general category (Annexure A-3). It appears that, by mistake, the applicant was allotted roll No.1976 which is from a block of numbers reserved for Scheduled Caste, as seen from

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Annexure-A-7, which gives the roll numbers of the SC candidates.

2. On that basis the results were declared by the Railway Board on 5.10.90 (Annexure A-4) wherein the applicant was shown as having passed the examination. However, when these results were communicated to the Northern Railway Headquarters, they, in turn, republished the results by the Annexure A-5 notice, wherein it was indicated that the result of the applicant was withheld and that it would be declared later on.

3. Subsequently, the applicant was given a notice on 9.10.90 (Annexure A-6) asking for her explanation as to why she did not inform the administration that she has been categorised wrongly as a SC candidate by being given roll No.1976 and to explain why action under the Discipline and Appeal Rules should not be taken against her.

4. The applicant, apparently, sought further information from the respondents and ultimately, on 31.10.90, the applicant was informed by the impugned Annexure A-1 letter that her result was withheld with the approval of the competent authority. She was further informed that she has been declared failed because of the marks secured by her, particulars of which have been given in that letter. Being aggrieved, this OA has been filed to quash this impugned order.

5. When the matter was taken up today, the learned counsel for the applicant seriously contended that when once the applicant was declared to have passed the examination by

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the Railway Board by the Annexure A-4 notice that result could not have been reversed to the detriment of the applicant without a proper notice to the applicant to show cause why this should not be done. In other words, the action of the respondents has violated the principles of natural justice. Sh. Romesh Gautam, the learned counsel for the respondents had taken our permission to be absent due to other work. In the view we are taking we do not find any need to hear him.


6. The applicant has no complaint that the marks awarded to her are not genuine. She has also no case that on the marks communicated to her at Annexure A-1, she should have been declared to have passed the examination. In other words, the applicant has no complaint about the manner in which, ultimately, the applicant's papers have been valued. If this be so, we see no merit in the contention that a show cause notice has still to be issued before the impugned Annexure A-1 decision was communicated to her. A show cause notice or any other opportunity to rebut the conclusion of the Railway Board would be relevant if she could really have shown that the proposed action is illegal. On merits, no case has been made out. Show cause notice is not an empty formality. It has to subserve an important purpose, namely, to ensure justice. In the circumstances of the case no injustice has been done and, therefore, the failure to issue a show cause notice will not vitiate the impugned order. Hence, the OA is dismissed.

7. We also hold that the mistake has been committed by the administration because the applicant did not make any claim that she belonged to a scheduled caste.

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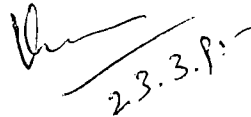
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Therefore, there is no question of taking any action against the applicant. Hence, the Annexure A-6 notice issued to the applicant is quashed. No costs.



(Dr. A. Vedavalli)
Member(J)

'Sanju'



(N.V. Krishnan)
Vice-Chairman(A)