

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI- 1.

O.A.No. 1297/91

Date of decision: 12.8.91

Sh.R.N.Malhotra

... Applicant.

Sh.R.K.Kamal

... Counsel for the applicant.

Versus

Union of India

... Respondents

Sh.P.H.Ramchandani

... Sr. counsel for the
respondents.

CORAM:

The Hon'ble Mr.Justice Ram Pal Singh, Vice Chairman(J).

The Hon'ble Mr.I.P.Gupta, Member(A).

(Judgment of the Bench delivered by
Hon'ble Sh.I.P.Gupta, Member(A)).

JUDGMENT

This is an application filed U/s 19 of the
Administrative Tribunals Act, 1985.

2. The applicant holds a civil post in Grade 'C'
cadre of the Engineering Department of Indian Railways and
posted at Agra Cantt of Central Railway. The applicant
was eligible for promotion to Grade 'B' service (Asstt.
Engineer) in the Civil Engineering Department of the
Central Railway. In accordance with Rules & Instructions
for promotion, a selection was ordered by the Central Rail-
ways on 6.12.90, for filling up 68 vacancies of Assistant
Engineers Grade 'B'. A written test was held by the Selec-
tion Board/Committee on 12.1.91 and on 9.2.91. Twelve
candidates were declared qualified. The applicant was
at S.No.10 in the list of 12, circulated by the Central
Railways in their letter of 13.3.91 (Annexure A-5 of the
applicant). The Viva voce test was postponed to 2nd week
of April, When no date for viva voce was fixed till 2nd
week of April, the applicant met various officers of the

contd..2p...

(a)

Railway Department, including the General Manager, Central Railways. The General Manager informed him that the panel of qualified candidates was being cancelled. The applicant later came to know that the impugned order dated 12.4.91 was issued mentioning that as per orders passed by the Competent Authority, aforesaid selection proceedings are hereby cancelled. The process will be started ab initio immediately. Orders (impugned) for fresh selection were issued on 8.5.91 through fresh written test to be held on 8.6.91.

3. The applicant has sought the following relief:-

- i) To quash and set aside the impugned order, dated 12.4.91 and order dated 8.5.91.
- ii) To direct the respondents to restore the original selection proceedings and allow the Selection Committee to continue the selection proceedings from the stage they were prevented from doing so.

4. The learned counsel for the applicant invited attention to Rule 204.10 of the Rules governing the promotion of sub-staff. Rule 204.10 is as follows:

frsh

"The recommendations of the Selection Committee should be put upto the General Manager for approval. If he does not approve of the recommendations he will record his reasons in writing there for and order a fresh selection. Once a panel is approved by the General Manager no amendment or alteration in the panel should be made except with the prior approval of the Railway Board".

5. The learned counsel for the applicant argued that the recommendations of the Selection Committee were not completed as viva voce test was still to be held and

therefore could not be put up to the General Manager for approval. It was therefore premature for him to disapprove. The learned counsel for the respondents however, argued that the General Manager at any stage could issue orders approving or disapproving the process of selection. If he had the authority to approve or disapprove when the authority to approve or disapprove within any intermediate stage.

6. In the course of the argument the 1d. counsel for the respondents strongly urged the following points:

- 1) When the selection was for 68 posts and only 12 candidates were declared successful in the written test, the purpose of selection process was more or less defeated because even out of 12 candidates a few might not have succeeded in the viva voce test.
- ii) The reason for cancellation was that in the finance paper the marking was very stiff and therefore even those who had done very well in the technical papers which were more relevant to the work that the selected candidates were required to do after selection, could not succeed.

7. It has not been contended anywhere that any mal-practices were indulged in the process of selection. Even assuming for a moment that the General Manager had the power to cancel the selection process at an intermediate stage, the point to be examined is whether such cancellation was justified in the present case.

8. It cannot be said that a panel of successful candidates for written examination was not prepared. A list of successful candidates was circulated by the Central Railways vide their letter of 13th March '91, to various units, vide annexure A-5. If the marking was stiff, it

41

goes to the credit of the successful candidates that they came out successful despite the strictness observed. Again if the technical papers were to be given more weightage than finance papers, then the matter should have been thought out earlier and the technical papers should have been of higher marks than the finance paper, in the examination and this was a matter to be decided before the holding of the examination.

9. In the conspectus of the aforesaid facts, the Tribunal observes that the successful 12 candidates should not be made to suffer. If the number of vacancies is very large and the successful candidates would be able to fill only a very small percentage of the vacancies, it is left to the higher authorities to conduct further selection process to select more candidates. The Tribunal therefore, directs that the impugned order dated 12.4.91 No,HPB/661/RE/Class II(LGS) is quashed and the selection process of holding of viva voce test, scrutiny of confidential report and obtaining of vigilance clearance etc. in terms of Central Railway letter No. HPB/661/RE/Class II(LGS) dated 13.3.91 should take its course. The pending written test which was to be held on 8.6.91 should be for selection of more candidates in order to fill the large number of vacancies. To this extent the Central Railway's communication No.HPB/661/RE/Class II(LGS) dated 8.5.91 stands modified. The Tribunal orders accordingly. There is no order as to costs.

I.P.Gupta
(I.P.GUPTA)
MEMBER(A)

12.8.91
(RAM PAL SINH)
VICE CHAIRMAN (J)