

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

....

Date of decision

(3)

24.10.91

Coram

Hon'ble Shri S.P.Mukerji, Vice Chairman
And

Hon'ble Shri J.P.Sharma, Judicial Member

OA No.2278/91

Shri H.K.Mishra & 5 others Applicants

Shri S.K.Bisaria ... Counsel for the
applicants

Vs,

General Manager,
Central Railway, Bombay
and another.

.... Respondents

JUDGEMENT

(Delivered by Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 10.9.91 the 6 applicants who have been working as Ticket Collectors in the grade of Rs 330-560 and later promoted as Head Travelling Ticket Examiners in the revised scale of Rs 1400-2300 on adhoc basis under the Central Railway have prayed that the respondents be directed to regularise them as Head T.T.E with effect from the date of their initial appointment with all consequential benefits including seniority. They have also prayed that the selection tests held on various dates in January 1991 and on 16.3.91 with reference to the notification dated 29.11.90 be set aside.

2. We have gone through the application carefully and heard the learned counsel for the applicants. According to the applicants a selection test was held in December 1989 for regular promotion to the post of Head T.T.E. but

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the results were not declared. The respondents cancelled the selection test and issued another circular dated 29.11.90 for holding another test on three dates in December 1990. According to the applicants, no test was held in December 1990 but selection test was held in January and March 1991 and the results were declared on 16.8.91 in which the applicants' names did not figure, ^{for the} ostensible reason that they had failed. According to the applicants, the tests were held with numerous irregularities and the selection should be quashed. They have also argued that some adhoc appointees like them were regularised without qualifying in the selection test. They have claimed that since they had worked on an adhoc basis for more than one year as Head T.T.E. they are entitled to be regularised. Their contention is that if the respondents had declared the results of the written test held in December 1989 the applicants would have definitely been selected.

3. It is true that the applicants were promoted on an adhoc basis as Head T.T.E. between 1986 and 1988 but they have not been able to indicate any rules or instructions by which adhoc promotions would automatically entitle them to regular promotion. The applicants themselves have pointed out that in accordance with the recruitment procedure, for such promotion, a comprehensive selection consisting of written test, viva voce, seniority, record of service etc. has been laid down. Their adhoc promotion was not in accordance with the prescribed procedure. The respondents were in their rights to cancel the selection test held in December 1989 and hold fresh selection. In any case the applicants have no right to claim selection on the basis of that examination which was cancelled by the competent authority. Their presumption that had the results been declared of the 1989 test they would have been selected is hypothetical.

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In any case they have appeared in the 1991 test. The applicants cannot challenge its validity now that they were not selected. In Om Prakash Sukla Vs. A.K. Sukla (AIR 1986 SC 1043), it has been held by the Hon'ble Supreme Court that having appeared in a test one cannot question its validity after one fails in the test or finds himself unlikely to pass.

facts and

4. In the circumstances, we see no merit in the application and reject the same under section 19(3) of the Administrative Tribunals Act.

J.P.Sharma
(J.P.Sharma)
Member (J)

S.P.Mukerji
24.X.91
(S.P.Mukerji)
Vice Chairman