

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.340/91

New Delhi: <sup>JULY</sup> ~~1994~~ <sup>10<sup>th</sup></sup>, 1995.

HON'BLE MR. S.R.ADIGE, MEMBER(A).

HON'BLE MRS.LAKSHMI SWAMINATHAN, MEMBER(J)

Shri D.C.Goel, Divisional Personnel Inspector,  
Northern Railway,  
Moradabad.

.....Applicant.

By Advocate Shri S.K.Gupta.

Versus

Union of India  
through

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

2. Shri K.L.Sikka,  
Chief Personnel Officer,  
Northern Railway,  
Baroda House,  
New Delhi.

3. Shri B.K.Sinha,  
Asstt. Personnel Officer(Gazetted),  
c/o General Manager,  
Northern Railway,  
New Delhi

.....Respondents.

Departmental Representative Shri Surinder Singh, P.A.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member(A).

In this application, Shri D.C.Goel, Divisional Personnel Inspector (DPI), Northern Railway, has impugned the orders dated 8.1.91 (Annexure-A1) and 11.10.90 (Annexure-A2) against his non-inclusion in the panel of APOs. He has prayed that his rejection in the viva-voce be declared illegal and wrongful and has sought a direction to arrange a fresh viva-voce test and for all consequential benefits from the date his junior was promoted as APO.

2 . The applicant's case is that he became eligible for consideration for the selection post of APO Class II in 1990 after having rendered more than three years of non-fortuitous service in the grade B.1400-2300 in accordance with the eligibility conditions mentioned in the call letter for the selection test. The selection test comprised of a written test and a viva-voce test. The written test was held on 7.7.90 in which about 800 candidates including the applicant were allowed to appear against 32 vacancies in the cadre of APO and he was one of 29 candidates who were declared successful in the written test. The viva voce test was held on 9.10.90. He states that his performance in the interview was satisfactory and his ACRs for the preceding five years were to be taken into account and during this period his work was outstanding. He states that after having been placed as No.5 in the total list of 29 names who qualified in the written test and having fared very well in the viva-voce test, he was confident that he would be selected but was surprised to find that he had not been selected. He stated that he was rejected in the viva voce test because respondent No.3 Shri B.K.Sinha was actuated malice towards him and planted wrong information before respondent No.2 (CPO) who conducted the viva -voce test. The applicant has alleged that Respondent No.3 had developed hostility against the applicant when he was working as APO under the DRM, Moradabad arising out of allegation of corruption made against Respondent No.3. The applicant contends that when the cases were pending against Respondent No.3, he approached several times

for suppressing or delaying some of the documents because the applicant was dealing with those cases in the Confidential Section under the DRM, Moradabad but the applicant had refused to oblige. The applicant further alleges that Respondent No.2 (CPO) acted on the wrong information fed by respondent No.3 and also shown his annoyance against the applicant during the viva-voce test for having secured the recommendations of DRM, Moradabad through his letter dated 25.9.90 (Annexure-A9), of which the applicant claims that he had no knowledge.

3. The official respondents have denied the contents of the O.A. They deny that the respondent No.3 had planted wrong information before Respondent No.2 or that Respondent No.3 had prepared any brief for any member of the Selection Board as alleged by the applicant. They stated that Group 'B' posts are filled up by the positive act of selection comprising of written test and viva-voce on the basis of his overall criterion laid down by the Railway Board in the letter dated August, 1986. They stated that the applicant failed to find place in the panel and hence could not be appointed as APO.

4. Respondent No.3 has also challenged the contents of the O.A. in his reply. He has also denied that the applicant was rejected in the viva-voce test because of any malice or he planted wrong information before Respondent No.2. He denies that he was ever entrusted to prepare the briefs for member of the selection board. As regards the allegation of corrupt practices, he states that a forged FIR was lodged against him by his juniors.

in connivance with certain persons which was investigated by CBI and the allegations were found false and later dropped. The matter was also investigated by the vigilance and they concluded that no vigilance angle was involved. He further denies that he ever briefed respondent No.2 to the effect that the applicant was not due for selection to the post of APO as alleged by the applicant or that adversely commented in regard to the eligibility for the post of APO. He states that since he had placed all the facts based on the record, the applicant was considered in the viva-voce test by the Selection Board but perhaps he could not be finally placed on the panel on the basis of his overall performance before the Selection Board.

5. The Departmental Representative produced for our inspection the relevant file bearing No.CPO/ Selection/ APOs/90 regarding selection of APOs against 75% quota for the year 1990. At page 13/1 of that file, the office-note indicates that as per Railway Board's letter No.E(GP) 86/1/23 dated 18.6.87, the following marks are allotted under different heads and the applicants are required to secure 60% marks under each head in order to qualify the selection.

<u>Head</u>	<u>Marks allotted</u>	<u>Qualifying marks</u>
Written	50	30
Viva-voce	25	15
Record of Service	<u>25</u>	<u>15</u>
	<u>100</u>	<u>60</u>

6. Although the applicant secured above 60% marks in the record of service as well as in the

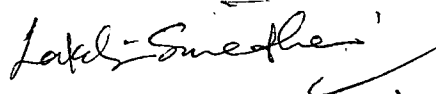
written examination which includes professional ability, he secured only 10 marks out of 25 in the viva-voce test wherein the personality and leadership qualities were judged.

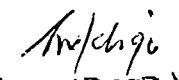
7. It needs no reiteration that to function as an Asstt. Personnel Officer effectively, the incumbent needs to have a dynamic personality and strong leadership qualities. The duties and responsibilities of the job are not only desk bound, but involve work in the field. The incumbent not only has to handle personnel problems of railway employees of various levels and categories individually, but is also involved in handling railway unions. He is called upon to interpret management policies to the unions in a correct perspective, and provide feed back in respect of their reactions in a mature manner. He may be involved directly or indirectly in all manner of labour disputes and may be associated with different stages of their being brought to a satisfactory conclusion, including negotiations, conciliation, arbitration etc. Besides having strong communication skills and the ability to motivate, it is clear that the demands of the job, require the incumbent to possess a strong personality and robust qualities of leadership.

8. In the present case, the Selection Board, whose individual competence to make such an assessment has not been questioned by the applicant in the O.A. had, after interviewing him, held that his personality and leadership qualities did not quite measure upto the job. The applicant has no enforceable right

to be selected. He has an enforceable right only to be considered for selection, and in this case admittedly he was considered. This Tribunal cannot substitute its own judgment regarding the personality and leadership qualities of the applicant, in place of the Selection Board. No materials have been produced before us to substantiate the applicant's allegation of malafide in respect of Respondent No.3 Shri B.K.Sinha, and the contents of Railway Board's letter No. E(GP) 86/1/23 dated 18.6.87 have also not been impugned. Furthermore, the applicant's counsel has not cited a single authority or ruling for us to hold that the action taken by the respondents was arbitrary, unreasonable, discriminatory, or perverse, and thus violative of Articles 14 and 16 of the Constitution, to warrant our interference.

9. In the result, this application fails and is dismissed. No costs.

  
( LAKSHAMI SWAMINATHAN )  
MEMBER (J) 10/7.

  
( S.R. ADIGE )  
MEMBER (A)

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