

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 2448/92

(19)

New Delhi: this the 24th

day of November, 1997

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

N. D. Mishra, Chief Enquiry & Reservation Clerk,
Northern Railway, Dehradun,
R/o 1-161, Khurbura Road,
Dehradun (Up)

..... Applicant.

(By Advocate: Shri R. K. Kamal)

Versus

Union of India
through

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

..... Respondents.

(By Advocate: Shri P. S. Mahendru)

JUDGMENT

BY HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A)

Applicant impugns Respondents' letter dated 30.7.92 (Annexure-A1) emp enelling various persons for the post of Enquiry & Reservation Supervisor (Rs. 1600-2660) as a result of the written test and interview held on different dates in 1990-92.

2. We note that the impugned letter stated that the panel was provisional and the final result would be subject to the final judgment given by CAT PB, New Delhi in O.A. No. 429/90. In that O.A., the two applicants Dalip Singh and V. V. Sharma had sought quashing of the provision for allotting three posts to SC, and 2 posts to ST employees. That

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OA and other similar OAs had been kept pending awaiting decision of the Hon'ble Supreme Court in J.C.Mallick's case (SLJ 1996 Vol.I page 115), and as the Hon'ble Supreme Court had disposed of the appeal in J.C.Mallick's case by its judgment, OA No.429/90 was disposed of by judgment dated 13.9.96 with a direction to respondents to consider the issues involved in that OA in the light of the Hon'ble Supreme Court's judgment in J.C.Mallick's case.

3. In the present OA, the only ground pressed by applicant's counsel Shri Kamal was the one contained in paras 4.4 and 4.5 of the OA. It was alleged that the abrupt replacement of Shri P.S.Nerwal, Sr.DCS,Moradabad by Shri S.Chandra, Sr.DCS Delhi as Chairman of the DPC which prepared the panel was promoted by illegal and malafide motives and with the formation of a DPC consisting of officers belonging to Delhi area, the final results showed a disproportionately large number of successful candidates from the Delhi Area as reflected in the figures given in para 4.7. It is thus alleged that the viva voce test was biased.

4. Respondents deny this allegation and submit that Shri Nerwal could not be available for the selections only because he was busy in some duly assigned jobs in Moradabad Division. Respondents' counsel Shri Mahendru has asserted that applicant cannot impugn the selection having participated but not succeeding, and further points out that Shri Nerwal was replaced by an officer of equal grade and status (Shri S.Chandra was at the relevant time also a Sr.DCS).. Allegation of malafide, bias etc are stoutly denied.

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5. We have considered the matter carefully. We hold that the replacement of Shri Nerwal by Shri S. Chandra by itself is not sufficient to establish bias or malafide in the conduct of the DPC. There is a strong presumption of the correctness of Govt.'s actions unless the contrary is established. No reasons have been given as to why the DPC should have been inimically disposed towards applicant who belongs to Moradabad Division, and Shri S. Chandra has himself not been ^{made} a party to the OA. The Hon'ble Supreme Court has laid down in several judgments that where bias and malafide are alleged, persons against whom the allegations are levelled should be made a party to enable them to defend themselves and the allegations should not be vague and generalised as in the present case but specific and concrete and supported by material evidence.

6. In the present case, we hold that the allegations of malafide and bias are too vague and generalised to warrant any interference. The OA is therefore dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

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(S. R. ADIGE)
VICE CHAIRMAN (A).

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