

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI.

OA No.738/1993

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New Delhi this the 16th day of November, 1998.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Hon'ble Shri K. Muthukumar, Member (A)

Khushi Ram

S/O Late Shri Kainthu Ram,
Superintendent (Works),
DRM Office, Northern Railway,
Ferozpur.

... Applicant

(None for the applicant)

Vs.

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

2. Sr.DPO, Northern Railway,
Ferozpur.

... Respondents

(None for the respondents)

ORDER (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

None for the applicant even on the second call. We note that none had appeared for the applicant even on the previous date i.e. 9.7.98 and thereafter the case had remained on Board and has been listed at Serial No.10 in today's cause list.

2. In this case, the applicant has challenged the declaration of the results in the written examination for the post of Assistant Personnel Officers (APOs) held on 27.12.1992 and 20.2.1993. He is aggrieved that his name has not figured in the list of successful candidates. The applicant has also submitted that supplementary test was also held on 20.2.1993 for those persons who have not appeared in the earlier test. The applicant states that he belongs to/Scheduled Caste and was also entitled to preferential treatment. He has also taken the grounds that the respondents have violated the instructions regarding preparation of panel for each year. Instead they have clubbed together the vacancies from 1989 to 1993 and holding a common test.

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3. Another ground taken by the applicant is that according to the relevant instructions, for preparation of a panel to the higher posts the objective type questions must be set for 50% of the total marks for the written test and the remaining questions could continue of the narrative type which according to him the respondents have not followed in the present case. In the circumstances he has prayed that the records may be called for, including the question papers and answer sheets and the selection list dated 5.3.93 should be quashed and set aside.

4. The respondents in their reply have taken a preliminary objection that the applicant is posted as Superintendent in the Engineering Department at Ferozepur. He is also living and working with respondent in Ferozepur and as such the present application is barred by territorial jurisdiction under the provisions of the Administrative Tribunals Act., 1985. They have submitted that the respondents have not violated any instructions regarding holding the impugned examination and the results have therefore, been declared in accordance with the Rules/instructions. They have submitted that the applicant has not secured the minimum qualifying marks and he had appeared in the written test held on 27.12.1992. Supplementary written test was also held for those absentees who did not appear on that date. They have, therefore, prayed that the application may be dismissed. We note that the applicant has not filed any rejoinder to the counter reply filed by the respondents.

5. Having regard to Section 25 of the Administrative Tribunals Act, 1985 and Rule 6(1)(i) of the CAT(Procedure) Rules, 1987 the application is liable to be dismissed on the ground of lack of jurisdiction of this Bench.

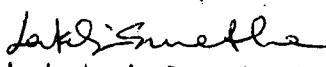
6. It is settled law that the applicant who has appeared in the written examination cannot challenge the results of that examination, after he has availed of the opportunity to take the

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examination and has been declared unsuccessful on the basis of the results. Since the applicant has also not controverted the averments made by the respondents in their reply, we find no good grounds to interfere in the matter as it does not appear that the respondents have conducted the examination in any manner which is contrary to the Rules/Instructions. We, therefore, find no merit in this application.

7. In the result, for the reasons given above, the OA fails and is dismissed. No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

S.R.