

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 712 of 1996

Allahabad this the 22nd day of February, 2002

Hon'ble Mr.C.S. Chadha, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

1. Shri U.P. Sharma, aged about 35 years, s/o Shri Phool Chandra Sharma, R/o Quarter No. 964-A-RB-II, TRS Colony, Nagra, Jhansi.
2. Shri Bajrang Bahadur, aged about 35 years, S/o Shri Hublal, R/o 967-A-RB-II, TRS Colony, Nagra, Jhansi.

Applicants

By Advocate Shri Rakesh Verma

Versus

1. Union of India through the General Manager, Central Railway, Bombay V.T.
2. Divisional Railway Manager(P), Central Railway, Jhansi.
3. Shri Gurubachan Singh, at present working as High Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.
4. Shri Indrajeet Singh, at present working as Highly Skilled Fitter Gr.I, Trip Shed, Agra under the control of Divisional Railway Manager, Central Railway, Jhansi.
5. Shri Asha Ram Chaube at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.

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6. Shri Ram Murti Sharma at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed Jhansi.
7. Shri O.P. Bboyare, at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.
8. Shri Nagesh Chandra at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.
9. Shri Ahsanullah Khan, at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.
10. Shri Ganga Ram Singh at present working as Highly Skilled Fitter Gr.I, Electric Loco Shed, Jhansi.

(Notice may be served through Divisional Railway Manager, Central Railway, Jhansi.)

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr.C.S. Chadha, Member (A)

The applicants had appeared for the written and viva voce test for promotion as Chargeman 'B' for which Artisans Grade ^{II} I and III were eligible. All eligible candidates were supposed to apply with the 3 following requisite conditions;

- "(a) The candidates must have completed 3 years regular service as Artisan,
- (b) The candidates must have passed High School Exam. or equivalent,
- (c) The candidates must have ^{been less} below the age of 45 years. "

The case of the applicants is that one

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Shri Gurubachan Singh did not apply by that date and he had been included in the panel and, therefore, the entire selection was illegal. However, counsel for the applicants is unable to show that before appearing in the test the applicants objected the inclusion of Shri Gurubachan Singh in the written test. As such, we cannot agree that there has been any illegality on this score.

2. Counsel for the applicants has also raised the objection that Shri Nirmal Kumar Sharma and Shri Kamla Pati Sahu who were allowed to appear in the written test, had not completed 3 years as Artisan and, therefore, they were not entitled to appear in the test. Learned counsel for the respondents has pointed out that their inclusion in the written test in no way prejudiced the applicants' selection because these two persons had failed in the written test. Further the counsel for the applicants has objected to the inclusion of Shri Ram Kumar in the test because he had already been transferred from the TRS Section. Counsel for the respondents in reply to this argument has mentioned that Shri Ram Kumar although transferred, had not been relieved till the date of examination and, therefore, his examination was not illegal.

3. We find that the objections raised regarding the selection/entries in the examination by Shri Gurubachan Singh, Nirmal Kr.Sharma, Kamla Pati Sahu and Ram Kumar are not tenable. However, counsel for the applicants has pointed out a major defect in the viva voce test of selection process. According to.....pg.4/.

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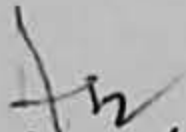
para(e) and (f) of Rule 219 of Indian Railway Establishment Manual Volume I while conducting the viva voce test all the relevant records including Confidential record of the candidates should be available with the Board. The condition lays down that the Members of the Board shall after considering the Confidential record and other papers, record their marks independently, and then a final selection is based on the average of marks. Counsel for the applicants has brought to our notice a letter dated 22.4.96 at annexure R.A.-5, which clearly mentions that record of 7 candidates were not available and, therefore, there was a difficulty in issuing the final selection panel. He, therefore, contends that the requirements para-(e) and (f) of Rule 219 were violated and the selection panel did not have the record of those 7 persons while conducting the viva voce test.

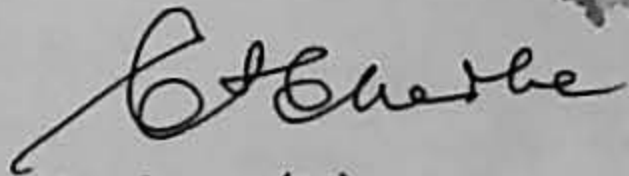
4. The question to be decided is whether the lack of such records really prejudiced the selection or otherwise and whether any undue favour was given to those selected persons. From the averments made before us, we cannot come to a final conclusion. However, it would be in the fitness of ^{things be} ~~circumstances~~ to issue a direction to the respondents to verify whether in the case of 7 candidates whose Confidential reports were sought after the interview date, their Confidential records were considered and due weightage given after receipt of the record. If the respondents selection panel did consider the Confidential record and gave a due weightage even after the date of viva voce test and such weightage was considered before

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making the final decision, no prejudice has been caused to the applicants. If, however, this was not done, the selection is ab initio illegal.

5. The O.A. is , therefore, disposed of with the direction to the respondents to consider this issue and pass a fresh speaking order which should clearly state whether the above mentioned procedure was adopted. This decision should be taken within a period of 3 months from the date of receipt of this order. There shall be no order as to costs.


Member (J)


Member (A)

|M.M.|