

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 20TH DAY OF OCTOBER, 2000

Original Application No.935 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

1. L.S.Verma, son of Sri Teekam Singh, A.S.M. BAD R/o Railway colony, BAD Mathura
2. D.L.Yadav,son of Sri A.L.Yadav Deputy Chief Controller R/o D-94, Northern Railway Colony, Agra.
3. D.K.Sharma,S/o Sri S.K.Sharma Deputy Chief Controller, Jhansi, R/o F.259 Ambedkar Road, West Colony,Jhansi.
4. S.S.Singh,S/o Sri damru Singh, Deputy Chief Controller,Jhansi R/o Qr.No.F.262, Ambedkar Road, West Railway colony, Jhansi.
5. G.S.Matharoo S/o Shri Amar Singh,Mail/Exp.Guard R/o Opp. Khatibaba Temple, Pre Nagar, Nagra, Jhansi.
6. S.K.Agnihotri,S/o Late Shri A.K. Agnihotri,Mail/Exp.Guard, Jhansi Near Sipri thana, raiganj Colony,Jhansi.
7. A.K.Dwivedi,S/o Sri Amrti Lal Dwivedi A.S.M.Anant Paith, R/o Gali no.1 Shiv Colony Behind Railway Station, Dabra Gwalior
8. Rajveer Singh, S/o Sri Tejpal Singh Asstt. yard Master, Jhansi R/o railway Colony, BAD Mathura
9. K.V.Sharma, S/o K.L.sharma, Asstt. Station Master KITHAM, R/o Village Shahjadpur Raipura Jat Mathura
10. R.B.Sharma,son of Sri Medi ram Sharma, Asstt. Station Master KITHAM, R/o village Kayal P.O. BAD, Mathura.

11. D.K.Mudgal, S/o K.G.Mudgal
ASSTT. Station Master, bari
C/o Station Master Bari,
District Dholpur.
12. V.S.Yadav, S/o Sri G.D.Singh, Yadav
Deputy station supdt.Dabra,
C/o Station Supdt.Dabra,
District Gwalior.
13. Akshaya Kumar, S/o Sri R.P.Singh
Asstt. Station Master, BAD
R/o Railway colony BAD
District Mathura.
14. V.K.Sirothia, S/o Sri M.K.Sirothia
Mail Guard, Jhansi
C/O Station Supdt., Jhansi.

... Applicants

(By Adv: Shri Ajai Rajendra)

Versus

1. union of India, through General Manager, Central Railway, mumbai Chhatrapati Shivaji terminal.
2. Divisional Railway Manager(Personnel) Jhansi Division, Central Railway Jhansi.
3. Divisional Railway Manager(Personnel) Bhusawal Division, Central Railway Bhusawal.
4. Divisional Railway Manager(Personnel) Bhopal Division, Central Railway Bhopal.

... Respondents

(By Adv: Shri G.P.Agrawal)

o r d e r(Oral)

(By Hon.Mr.Justice R.R.K.,V.C.)

By this application u/s 19 of the A.T.Act 1985 applicants have challenged the panel prepared for promotion as Asstt. Commercial Manager Class-II. The Limited Departmental Competitive Examination for the aforesaid was held on 2.6.1996 and 9.6.1996 as clear from Annexure-3). The claim of the applicants is that they could not appear in the examination for want of information on account of the lapses on the part of the department. The contention of the respondents on the other hand, is that the applicants had adequate knowledge of the date of examination i.e. 2.6.1996 and 9.6.1996 and they failed to appear on account of their own mistake. It has also been submitted by

(3)
:: 2 ::

Shri G.P.Agrawal and ~~it is~~ ^{also stated} in para 8 of the counter affidavit, ^{that} Applicants 1-3 L.S.Verma, D.L.Yadav and D.K.Sharma appeared in the examination on 9.6.1996. For them it was a supplementary examination as they failed to appear on 2.6.1996. For remaining applicants 4-14 it is submitted that they did not appear either on 2.6.1996 or 9.6.1996. On perusal of the averments made in the application and the CA it has to be determined as to which of the two contentions can be accepted. In our opinion, applicants have not come with clean hands. The documents on record namely (Annexure 5 & 6) clearly show that applicants had knowledge of the dates of the Limited Departmental Examination. Shri G.P.Agrawal in counter affidavit has stated that the applicants 1-3 appeared in the examination which finds corroboration from Annexures 5 & 6. However in Rejoinder affidavit it has been vaguely stated that none of the applicants appeared in the examination on 9.6.1996 as they were not allowed to appear. Thus, we are not satisfied with the case set up by the applicants. Further applicants have prayed that the panel prepared on the basis of the examination held on 2.6.1996 and 9.6.1996 may be set aside. A Division Bench of this Tribunal on 27.6.2000 directed to implead the persons whose names were included in the panel as they are necessary parties in this application but the applicants have failed to implead them as respondents. For this reason also the applicants are not entitled for any relief in this application. The application is accordingly rejected having no merits. However it is made clear that the applicants shall be given chance to appear in the next examination, if ^{they} ~~have~~ already not appeared. No order as to costs.

S. Jain
MEMBER(A)

R. J.
VICE CHAIRMAN

Dated: 20.10.2000

Uv/