

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1427 of 2001

Allahabad, this the 22nd day of April, 2004.

Hon'ble Mrs. Meera Chhibber, J.M.
Hon'ble Mr. S.C. Chauhan, A.M.

1.

Vined Kumar,
aged about 31 years,
Son of Sri Raj Bali Prasad,
Resident of Village Saheshpur-
Bujeorg, Post Dehra Tikar,
District - Gerakhpur.
2.

Seharam,
aged about 45 years,
Son of Late Nehse Singh,
Resident of Village Madhuri,
Post Ganthari Sahapur,
District Hathresh.

.... Applicants.

(By Advocate : Shri T.S. Pandey)

Versus

1.

Union of India,
through General Manager,
North Eastern Railway,
Gerakhpur.
2.

Divisional Railway Manager,
North Eastern Railway,
Izzatnagar Division,
Bareilly.
3.

Senior Divisional Personal Officer,
North Eastern Railway, Izzatnagar
Division, Bareilly.

..... Respondents.

(By Advocate : Km. S. Srivastava)

ORDER

By Hon'ble Mrs. Meera Chhibber, J.M. :

By this OA applicants have challenged the order dated 30.10.2001 by which selections for the post of Clerks in the

....2.



pay scale of Rs.3050-4590 have been cancelled without giving any reasons.

2. The admitted facts are that vide notification dated 31.5.2001 applications were invited from departmental Grade 'D' employees to fill up 03 posts of Clerks in the pay scale of Rs.3050-4590, two were for general category while one was for Scheduled Caste. 36 candidates including both the applicants applied for the post. After scrutiny 29 persons were found eligible vide letter dated 13.7.2001. All the candidates appeared in written test on 22.7.2001. Results were declared on 1.8.2001 wherein only 03 candidates were found suitable for viva-voce including the applicants. Viva-voce was held on 8.8.2001. Instead of declaring the panel or final result, by impugned order dated 30.10.2001 this selection was cancelled without giving any reasons.

3. Applicants challenged this cancellation order by seeking a direction to the respondents to issue promotion/posting order to the applicants pursuant to the selections held on 22.7.2001 and 2.8.2001.

4. During the pendency of this O.A. respondents issued another letter ^{notifying} dated 26.11.2001 calling upon the candidates ^{again to} appear in written test _{on} 8.12.2001.

5. Applicant filed MA No.5338/2001 seeking stay of the operation of letter dated 26.11.2001, on which the following order was passed by the Tribunal on 13.12.2001.

"We have heard Shri T.S. Pandey counsel for the applicant and Shri K.P. Singh counsel for the respondents,

Through MA No.5338/2001 the applicant has prayed that selection proceedings in pursuance of the notification dated 26.11.2001 may be stayed. Shri Pandey has submitted that the applicant has not appeared in the written test held in pursuance of the aforesaid notification. The date of viva voce has not yet been fixed. After considering the facts and circumstances, in our



opinion, selection proceedings are not required to be stayed in the present case. In case prayer of the applicant is accepted in respect of earlier selection in which he claims to have succeeded, his interest may be protected by saying that this second selection shall be subject to final order passed in the OA. M.A. No. 5338/2001 stands disposed of."

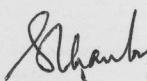
6. The rights of applicants were therefore fully protected by the court. Now the short point for consideration before us ^{is B} whether respondents could have cancelled the selection already completed without giving any cogent reason. Respondents in their counter affidavit have stated that there was no need to give reasons and since selections were cancelled by the Competent Authority, it calls for no interference. They have also submitted that since final results had not yet been declared, applicants did not get any right to be promoted. In any case applicants were also given a chance to appear in the subsequent selection.

7. We have heard both the counsels ^{though B} while it can not be disputed that respondents have the power to cancel the selections but we can not accept the contention of respondents that the same can be cancelled without even giving any valid reason. If such a contention is accepted, it would leave room for arbitrariness and manipulation which cannot be allowed. Once the cancellation of selection is challenged, respondents should have atleast explained the reason to the Court as to why it because necessary to cancel the selections. Leave alone explaining the reason, they have the ~~chance~~ to say that they are not required to disclose the reasons. Such a contention has to be rejected outright. After all if there was any valid reason, respondents should have stated so in ^B ^{Ch affidavit B} order to show their bonafides but from their reply, it seems no justified reason was available with them therefore they are trying to take shelter under "unavoidable circumstances" without disclosing those unavoidable circumstances. Even

Competent Authority can not act as per his whims and fancies and the least they could have done was to show the reasons recorded in the files to the court atleast but since no such effort has been made we have no other option but to quash the notification dated 30.10.2001.

8. Since this Tribunal had already protected the rights of applicants and respondents have stated in their counter affidavit that only written test has been held. We direct the respondents to declare the result of applicants. In case they had qualified, in viva-voce also, they should be given the promotion orders subject to fulfilling all others requirements of rules. In case they had not qualified in the viva-voce test, reasoned and speaking orders should be passed under intimation to the applicants. This exercise shall be completed within two months from the date of receipt of a copy of this order.

9. The O.A. is accordingly allowed with no order as to costs.


MEMBER (A)


MEMBER (J)

shukla/-