

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21ST DAY OF MARCH, 2002

Original Application No. 359 of 2001

CORAM:

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

HON. MAJ. GEN. K.K. SRIVASTAVA, MEMBER (A)

Prabhat Mohan Saxena, son of
Late Shri S.B.L. Saxena, R/o 390,
Sheetla Ghat, Ghia Mandi, Mathura

... Applicant

(By Adv: Shri A.K. Dave)

versus

1. Union of India through
General Manager, Central
Railway, Kshatrapati Shivaji
Terminal, Mumbai.
2. Divisional Railway Manager (Personnel)
Central Railway, Jhansi.

... Respondents

(By Adv: Shri Prashant Mathur)

O R D E R (Oral)

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

By this application u/s 19 of A.T. Act 1985 applicant has challenged the order dated 14.6.2000 (Annexure 5) by which the selection of Commercial Apprentices through Limited Departmental Competitive Examination Grade Rs 1600-2660 (RSD) Rs 5500-9000 in pursuance of notification dated 23.7.1998 has been cancelled. Applicant has also challenged the notification dated 14.6.2000 directing fresh selection for Commercial Apprentices against 10% quota through Limited Departmental Competitive Examination.

The facts in short giving rise to this application are that on 23.7.1998 it was notified that selection shall take place for Commercial Apprentices through Limited Departmental Competitive Examination. A list of eligible and ineligible candidates was also simultaneously published on 9.11.1998. The applicant

:: 2 ::

Prabhat Mohan Saxena was shown in this list of eligible candidate at sl.no.129. The applicant appeared in written test held on 29.11.1998 and 6.12.1998 and he was found successful and was called for viva-voce by letter dated 23.2.1999(Annexure 4). He appeared in viva-voce ~~by~~ which took place on 7th and 9th of February, 2000. In viva-voce in all 72 candidates attended. However, by order dated 14.6.2000 entire selection was cancelled by respondent no.2. no reason has been stated in the impugned order.

In counter reply also the respondents failed to disclose any cogent reason for which they were compelled to cancel the entire selection. However, they in para 16, ^{Shave} it was stated that the original proceeding file, will be produced in a camera for personal satisfaction of this Tribunal which will clearly demonstrate that the decision of the Competent Authority was warranting in the circumstances of the case. Shri Prashant Mathur has placed before us the entire record . We think, it shall be appropriate to reproduce the entire proceedings and the reasons for which the entire selection was cancelled. It was a note of 10.2.2000 which finds place at page no.76 of the record.

The note reads as under:

Dt. 10-2-2000

NOTE

Viva-voce for the post of Commercial Apprentice, Gr.Rs5500-9000(RSRP) was conducted on 7th & 9th Feb.2000. In all, 72 candidates attended the viva-voce on the above dates.

On 8.2.2000, there was a derailment of UP Goods train-NZM Special between Koshi-Chata sections; in which both the main lines were blocked, causing major disruption in movement of Mail/Express & Goods traffic. Down track was blocked from 438 Hrs. to 1953 Hrs, and UP



:: 3 ::

track was blocked from 438 Hrs, to 620 Hrs on 9.2.2000. Due to this accident, one of the Committee Members had to remain in JHS Control office throughout the day and night on 8th Feb., & 9th Feb. morning till 700 Hrs. As a result, the member could not remain present throughout the viva voce conducted for the above said selection, but for the later part of the afternoon session.

In view of the above, it is suggested that-

- i) The viva voce of the candidates, whose interview took place on 9.2.2000, may be recalled; or
- ii) The entire proceedings may be scrapped.

Kindly decide.

Sd/
(Sanjay Mohanty)

Sd/
(Prem Narayan)

Sd/
(Rajesh Singh)

ADRM-1

1. Committee may discuss

Sd/
25.2.2000

2. Discussed with Sr.DOM, DCM and DPO on 24.4.2000

Sd/
24.4.2000

In view of the above circumstances, entire proceedings are scrapped. Fresh selection may be ordered.

Sd/
7/6/2000"

From the aforesaid note it is clear that out of the three Committees Members who ~~had~~ ^{were} to conduct the viva-voce, one could not appear on account of the alleged accident. However, two courses were suggested either to cancel the viva-voce held on 9.2.2000 and to hold a fresh viva-voce or to cancel the entire selection. The Authorities opted the second option. The decision for cancelling the entire selection was totally uncalled for and arbitrary. It is always contemplated in the notification



that out of three, one member of the Committee may not participate the selection will not be effected. ~~It is always provided in any case, there was no illegality in the selection and the written examination held already. The viva-voce if according to respondents was not proper it could be held again, by cancelling the entire selection, The respondents committed serious illegality, the orders cannot be sustained.~~

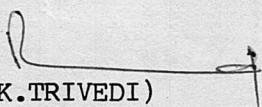
Now the question is what relief can be granted to the applicant. Shri Prashant Mathur, counsel for the respondents has submitted that the selection on the basis of the impugned notification dated 14.6.2000 has been completed and the selected candidates have ~~been~~ joined the post. In this OA only the applicant has approached this Tribunal against the aforesaid illegal orders. Then we perused the record to ascertain the performance of the applicant in the earlier selection. The applicant could secure 21 marks in written examination and 5 marks in viva-voce for personality and leadership, and record of service, he has been given 15 and 13.3 respectively. The total marks obtained by the applicant ~~is~~ ^{are} 54.3. Whereas, there are number of candidates who had scored much higher marks than the applicant. The highest score was 72.9. Even if the full marks of the viva voce were given to the applicant the applicant could not be successful in the selection. In the circumstances, though we disapproved the action taken by the respondents, we refuse to interfere.

The OA is accordingly dismissed with no order as to costs. ^{The office}
However, we direct that a copy of this order shall be sent to the Chairman, Railway Board for considering the necessary action in the matter, so that such arbitrary action may not be repeated in future. We suggest the Chairman, Railway Board that in such circumstances it may be made obligatory on the officers to disclose reasons in the order if cancellation of a selection

:: 5 ::

is required. Had the reason be known to this Tribunal in the beginning , an interim order must have been passed and the injury could have been prevented to the applicant and many others.


(MAJ. GEN. K. K. SRIVASTAVA)
MEMBER (A)


(R.R.K. TRIVEDI)
VICE CHAIRMAN

Dated: 21st March, 2002

UV/