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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ALLAHABAD this the 26th day of October 2006.

HON'BLE MR. A.K. BHATNAGAR, MEMBER-J.
HON'BLE MR. P.K. CHATTERJI, MEMBER-A

ORIGINAL APPLICATION NO. 1282 OF 2005

1. Mrs. Parsis Saxena, aged about 45 years, W/o Sri A.K. Saxena, R/o M-11-D, Near Railway Hospital, Moradabad.
2. Mrs. Neelam Singh, aged about 35 years, W/o Sri Rajiv Kumar, R/o M-15-C, Near Railway Hospital, Moradabad.
3. Mrs. Swapna Singh, aged about 45 years, W/o Sri A.K. Singh, R/o 152-A, Azad Nagar (Near Nehru Junior High School) Railway Harthala Colony, Moradabad.

.....Applicants.

V E R S U S

1. Union of India through General Manager, Northern Railway, Moradabad Division, Moradabad.
2. Divisional Railway Manager, Northern Railway, Moradabad Division, Moradabad.
3. Sr. Divisional Personnel Officer, Northern Railway, Moradabad Division, Moradabad.
4. Chief Medical Supdt. Northern Railway, Moradabad Division, Moradabad.

.....Respondents

Present for the Applicant:
Present for the Respondents:

Sri T.S. Pandey
Sri Ravi Ranjan

O R D E R

BY P.K. CHATTERJI, MEMBER-A

The applicants in this O.A have challenged the order no. 561-E/EO-1/Med/Matron dated 1.9.2005 in

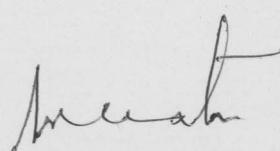
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which the applicants' selection for the post of Matron in the scale of Rs. 6500-10500/- has been cancelled. The applicants were selected for the post after prescribed Written test held on 2.7.2005 in which the applicants were successful. The result of the Written test was declared on 8.8.2005.

2. The applicants have challenged the order dated 1.9.2005 (Annexure-1) for the reasons that it is not speaking order, and does not disclose the reasons for cancelling the result of the examination and, therefore, is arbitrary. This is also contrary to the Railway Board's circular as well as the order of this Tribunal dated 21.3.2002 passed in O.A. no. 359 of 2001.

3. In the Counter affidavit, the respondents have submitted the following reasons for cancellation of the order, which reads as under:

"5. That after declaration of the result some of the candidates including applicant Mrs. Parsis Saxena represented before the Railway Administration to cancel the selection alleging irregularities which took place in the selection. The representation of the applicant was examined and it was found that pre-selection coaching to SC/ST employees was not given to the SC/ST staff, which is mandatory in accordance with the existing rules.



6. That in view of the irregularity noticed, it was decided to cancel the Written test to conduct afresh.

7. That from the perusal of the aforementioned O.A., it will be evident that on one hand the applicants have requested the Railway Administration to cancel the selection as per their representation dated 4.8.2005 and on the other hand they have filed the aforementioned case before this Hon'ble Court with the request seeking the relief to cancel the written test, which is liable to be rejected....."

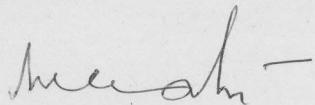
4. The learned counsel for the applicants disputed this statement by saying that the present applicants have not made any complaint regarding the irregularity in the selection. He has also pointed out that at this stage the reasons cited in the Counter Affidavit could not be accepted as justification for cancellation. In this context, the learned counsel cited from the judgment of **Mohinder Singh Gill Vs. Chief Election Commissioner (1978 AIR (SC) 851)** in which it was decided by the Apex Court that the validity of an order has to be decided on the basis of its inherent logic and reasons contained in the order. If it is found to be ultra-vires on the basis of certain inherent deficiency, it cannot be validated by reasons put forth subsequently.

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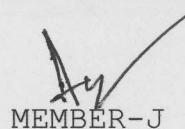
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5. We have applied our mind to the matter and we are convinced that the impugned order suffers from certain infirmities. It is too cryptic order which is not adequate for cancelling the examination and terminating the selection of the applicant thereby depriving them of certain rights which have already accrued to them. The termination should have been done after following the due procedure and as per rules.

6. We, therefore, quash the impugned order dated 1.9.2005. This direction is, however, issued without any prejudice to the respondents' authority to hold suitable enquiry into the matter of the alleged irregularities in the selection and thereafter take appropriate action strictly as per rules. No costs.



MEMBER-A



MEMBER-J

GIRISH/-