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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.133 OF 2005
ALLAHABAD THIS THE 18TH DAY OF FEBRUARY, 2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN
HON'BLE MR. S. C. CHAUBE, MEMBER-A

Sukumar Biswas,
Son of Upendra Mohan Biswas,
Resident of Village Bahirgachi,
Post Office Hat Bahirgachi,
District-Nadia (West Bengal).

. Applicant

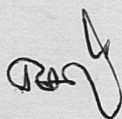
(By Advocate Shri P. Ganguly & Sri A.K. Gaur)

Versus

1. Union of India,
through General Manager,
N.E.R. Baroda House,
New Delhi.
2. Divisional Rail Manager,
North Eastern Railway,
Gorakhpur.
3. Assistant Secretary,
Railway Recruitment Board,
Gorakhpur.
4. Chairman, Railway Recruitment Board,
Gorakhpur.

. Respondents.

(By Advocate Shri A.K. Gaur)



.....2/-

ORDER

The applicant was a candidate for the post of Technician Grade III (Mech.) advertised by the Railway Board, Gorakhpur. Examination was held on 23.12.2001. The applicant was declared successful in written examination and he was required to appear for the verification of documents[✓] and interview[✓] ~~to be~~ held on 07.02.2002. Applicant appeared before the interview Board on the date fixed and was interviewed[✓]. It appears that appointment order was not issued in^{his} favour whereupon the applicant filed O.A. No.384/04 praying for issuance of a direction to the respondents to issue appointment letter in favour of the applicant with respect to the post of Tech.III(Mech.). The Tribunal disposed[✓] of the O.A. vide order dated 16.4.2002 directing the Divisional Railway Manager, N.E. Rly., Gorakhpur or the Competent Authority to decide the representation by a reasoned and speaking order. Pursuant to the said direction, the representation preferred by the applicant, was considered but rejected vide order dated 30.07.2004 which reads as under:-

"No.RRB/GKP/384/02/CAT/Ald

Dated 30.7.2004

Sri Sukumar Biswas
S/o Sri Upendra Mohan Biswas,
Vill. Bahir gachi P/o-Hat Bahirgachi
Distt.-Nadia West Bengal-741501

Sub: Hon'ble CAT/Allahabad's judgment dated 16.4.2004 in OA No.384/2004 Sukumar Biswas Vs. Union of India & Others received through your letter dated 25.5.2004.

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In compliance of Hon'ble CAT/Allahabad's aforesaid judgment dt.16.4.2004 it is to inform you that while sending the copy of above judgment the copy of representation dated 2.7.2003 has not been sent by you. However, the copy of representation dated 2.7.2003 as annexed as Annexure No.8 in aforesaid Original Application received through Railway Advocate has been examined, considered and decided by the competent authority i.e. Chairman Railway Recruitment Board, Gorakhpur also perusing documents pertaining with the matter and has passed a reasoned and speaking order which is reproduced as below.

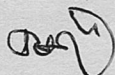
"The above named applicant after qualifying in the written examination for the post of Diesel Technician (Mechanical) Rs.3050-4590 Cat No.26 against Employment Notice No.RRB/GKP/2001-2002 appeared on 7.2.2002 for verification of original certificates. It was found that he had not followed the instructions contained in the question booklet and has marked the answers on the question booklet which was prohibited during the written examination.

Apart from above at the time of verification of certificate and counseling before the then Chairman he failed to reply the questions asked from the question booklet which he has attempted during the examination. Also could not reply the questions pertaining to Hindi and English languages sections and pretended about not knowing English or Hindi. Later on questions were asked in Bengali by another officer of Railway Recruitment Board, Gorakhpur there also could not answer the questions. On further interrogation, he accepted in writing about outside help during the written examination. Consequently a doubt was created regarding his selection.

During the verification and counseling he had accepted and confessed about the use of unfair means in the written examination by obtaining solved answers from the toilet of the examination center. Above declaration in writing was given by him without any pressure and undue influence.

As such due to above unlaved and fraudulent action he was not found fit for being finally selected."


2. The reasons for not giving appointment in

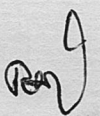


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favour of the applicant are self evident. He had used unfair means during examination and was not able to answer the questions asked to him from the question booklet which he had attempted during the examination and ^{admitted &} ~~attempted~~ in presence of the then Chairman Railway Board, using unfair means in the examination. The findings of fact recorded in the order dated 30.07.2004 are ^{not open &} ~~to~~ challenge before this Tribunal in absence of any allegation of malafide. We find no ground made out for interference in the O.A.

3. Accordingly, the O.A. fails and is dismissed in limine. No Costs.


Member-A


Vice-Chairman

/ns/