

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration (T.A.) No. 620 of 1987

K.S. Saxena

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Petitioner.

Versus

Union of India & others

Respondents.

Hon'ble S. Zaheer Hasan, V.C.

Hon'ble Ajay Johri, A.M.

(Delivered by Hon. Ajay Johri, A.M.)

31/ ✓
In this Writ Petition, received on transfer from the High Court of Judicature at Allahabad under Section 29 of the Administrative Tribunals Act XIII of 1985, the petitioner, K.S. Saxena, who is working as Confidential Assistant in the grade of Rs.425-700 in the Northern Railway at Allahabad, has challenged the assessment of vacancies of Assistant Personnel Officers for the selection held in 1982 which took two years to get finalised and has prayed for issue of a direction to respondents to fill up the vacancies after reassessment and ^{3/}from ^{3/}panels for 1982 and 1984 assessments placing the panel for 1984 vacancies below the panel for 1982 vacancies.

2. In September, 1982 applications were invited from eligible staff for the selection for the posts of Assistant Personnel Officers. The applications had to be submitted so as to reach the office by 20.11.1982. The petitioner was one of the eligible candidates and he applied for the selection. A written test was held on 12.2.1984, he was thereafter called for the viva voce test. A panel of 18 persons was declared on 3.9.1984.

The petitioner did not find place in the panel. According to the model time table laid down for such selections the selection should have been completed within four months but it took nearly two years for its finalisation.

3. These selections are to be held every two years but if these are not held as per schedule and are delayed for more than one year, for the selection^{which is} to be held the vacancies have to be assessed separately for each selection and employees within the field of consideration for each selection should only be considered for empanelment for that selection. The consolidated panel in such cases has to have on top the names of the persons considered and empanelled for the earlier selection and below them for the later vacancies.

4. The petitioner's case is that the respondents did not follow the procedure regarding holding selections which get delayed beyond one year. Thus inspite of qualifying in the selection he could not get in the panel. Had the procedure been followed he would have been empanelled against the vacancies for the two year period 1984-86. What is, therefore, to be determined is whether the process of selection was correctly followed or not.

5. We have heard the learned counsel for the parties and have also perused the Selection Board proceedings. It was contended before us that reassessment of vacancies should have been done because the selection was not completed within four months and lasted over a period of two years. The learned counsel for respondents, however, contended that even if 10 vacancies for the period 1984-86 would have been included the petitioner had no chance to get empanelled because his position was much lower according to his seniority.

6. Railway Board's instructions in their letter No.E(GP)78/2/101 of 23.1.1979 lay down that selections to Class II service should be held once in two years. For these selections the vacancies have to be assessed and 20 per cent of cadre added to make the total. Where a panel gets exhausted and the biennial selection is away by more than six months, a fresh selection is to be held. In Board's letter No.E(GP)81/1/18 of 9.4.1981 it ³⁴was ~~was~~ further laid down that if due to exceptional circumstances it is not possible to hold the selection as per schedule and it is delayed by more than a year, the first selection that is held thereafter should follow the following procedures:-

1. Actual number of vacancies should be assessed separately for each selection.
2. Employees who would be within the field of consideration with reference to the vacancies ~~for~~ for each selection should only be considered for that selection.
3. A panel should be prepared for each selection.
4. The panels should be consolidated by placing the panel of earlier selection above the panel for the later selection.

34/ 7. Applications for the 1982-84 selection were invited in September, 1982. The selection could, however, not be finalised within four months and the written test could only be held in February, 1984. The selection procedure starts with the inviting of applications. The eligibility conditions for this selection stipulated a minimum of three years non-fortuitous service and reaching to the stage of Rs.560/-. It is obvious that by 1984 more persons would have become eligible. Thus if it is taken that a selection procedure does not start till tests are

held there would be a grievance ^{31/} ~~if~~ ^{for} those who have become eligible are not given the opportunity to apply. It is, therefore, the date on which the applications are invited that becomes relevant and the vacancies are assessed only upto certain definite periods. The Railway Board's instructions regarding the procedure to be followed if selections are not held apply only to cases where the applications have not been invited. They cannot apply in this case. Here the eligible candidates had already applied.

8. On the assessment of vacancies for the period 1.7.1982 to 20.6.1984 we do not find any mistake. There were 20 clear vacancies and 20 per cent of the cadre was 9 and thus the total vacancies came to 29. Five vacancies were meant for Scheduled Caste candidates. Hence effective vacancies were 24. Anticipated vacancies are 20 per cent of cadre. 20 per cent is not to be calculated on actual plus anticipated as alleged in para 11 of the rejoinder affidavit.

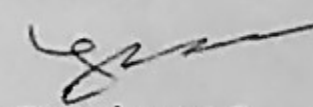
31/ 9. Seniority is an important criteria for putting the qualified persons on the panel. The empanelment was not based on the basis of total marks obtained in the selection. Thus this should have been determined sufficiently in advance to ensure that there was no mistake and to dispose of any representations that may be made but this does not vitiate the selection procedure. It will be wrong to conclude that since seniority position had not been indicated the whole selection becomes void. Such a proposition cannot be accepted and the plea raised by the petitioner on this account is rejected. None in the grade of Rs.425-640 to which he belongs has been empanelled and he was obviously not rated as outstanding. He was also not

senior enough amongst those who applied to find a place in the panel.

10. It is thus obvious that it would have set the selection clock back to the stage of inviting applications ~~again~~ from the eligible staff if vacancies for the period 1984-86 were also to be taken into account which would have further delayed the selections for 1982 vacancies. It would have, in any case, not harmed the petitioner because he could have appeared again in the selection against 1984-86 vacancies. His contention that since he had qualified he could be accommodated against the 1984-86 vacancy is not based on sound grounds. By this time more persons had become eligible and they had to be called for the test.

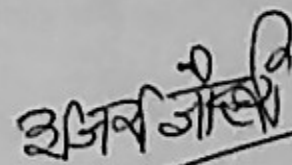
11. There could be another situation that when the selections were delayed beyond one year after the applications had been invited, the vacancies could be reassessed in June, 1983 to cover the vacancies for the period upto June, 1985. But even in that case on the basis of vacancies likely to occur during 1984-86 period which was 10, the chances of empanelment of the petitioner were remote as contended at the Bar by the learned counsel for the respondents because the number of vacancies would have been lesser than 10. However, this submission was not made but even on this account the petitioner gets no benefit.

12. On the above considerations we do not find any grounds to interfere with the selection procedure. The writ petition accordingly fails and is dismissed. Parties will bear their own costs.


Vice-Chairman.

Dated: January 12, 1988.

PG.



Member (A).