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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad: Dated this 15th day of July, 1996
Original Application No.914 of 1987

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Vinod Kumar Ojha
Son of Sri Devendra Saraj Ojha
Resident of D-36/25, August Kunda,
District-Varanasi.

(By Sri KML Hajela, Advocate)

. Applicant

Versus

1. Railway Service Commission
(Now Railway Recruitment Board),
19, Sardar Patel Marg, Allahabad.

2. General Manager,
Northern Railway,
Baroda House,
New Delhi.

(By Sri A.K. Gaur, Advocate)

. Respondents

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By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed under Section 19 of the Administrative Tribunal Act, 1985, seeking a direction to the respondents to declare the merit list of first 970 candidates on the basis of the examination held by respondent no.1 in pursuance to the Employment Notice No. 1/1980-81 published in the Daily Newspaper "Aaj" dated 7-3-1991. The further direction sought is for issuance of marks sheet to the applicant indicating marks obtained by him in the aforesaid examination and also for appointment of the applicant on ~~any post~~ any of the 970 posts aforementioned in case he finds place in the merit list of 970 candidates.

2. The admitted facts in this case are that the Railway Service Commission, Allahabad, issued Employment Notice No. 1/1980-81 which was published in the Hindi Daily Newspaper "Aaj" dated 7-3-1991 inviting application from candidates for making appointment on 970 posts which included 219 posts of Asst. Station Master, 120 posts of Good Clerks, 200 posts of Ticket Collectors and 250 posts of Office Clerks in the Northern Railway. 221 posts out of 970 were reserved for SC, 70 reserved for ST and 97 for ex-servicemen. The applicant appeared in the aforesaid examination. He qualified in the written test held on 28-2-1986 and was directed to appear for viva voce test and psychological test before the Railway Service Commission. He accordingly, appeared before the Commission on 4-8-1986. The final result of the examination was declared by the Railway Service Commission, (now known as Railway Recruitment Board) on 9-10-1986. It appears from the result declared that

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merit list of only 551 candidates had been published.

3. The applicant's grievance is that although the examination was held for 970 notified vacancies, the merit list of 551 candidates was declared and that too after a lapse of more than five years from the date of initial notification. At no point of time, however, it was in any way conveyed to the applicant by the Railway Service Commission that the number of posts had come down and, therefore, the appointments should be made only to 551 posts. The applicant claims that his father went to the office of the Railway Recruitment Board to find out why the merit list of only 551 candidates was published but the official concerned refused to disclose the reasons therefor. The applicant feels that on the basis of his performance in the examination, he would have been included in the merit list if the list of 970 candidates was published by the Railway Service Commission.

4. The plea taken by the applicant is that having advertised 970 vacancies, the respondents were estopped from publishing a merit list of candidates lesser in number than 970, as the applicant had applied on the basis of Employment Notice advertising 970 posts and had spent huge amount of money for preparing and appearing in the examination. Had he known that only 551 posts were to be filled, he would not have applied and spent his time and money for appearing in the examination. The other plea taken by him is that the respondents have taken more than five years in declaring result and by that time the applicant has become overage for the appointment of this post and, therefore, the respondents are under legal

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obligation to declare the merit list of 970 candidates.

5. The respondents in their written reply have stated that the Employment Notice itself clearly indicates that the vacancies were likely to increase or decrease. In fact, the vacancies were subsequently reduced by the General Manager, Northern Railway from 970 to 720. The result was accordingly processed for 720 vacancies but due to heavy shortfall in the availability of ex-servicemen and less availability of qualified candidates for the post of Asst. Station Master due to failure in the psychological test only 551 candidates were found suitable for appointment. The respondents have stressed that there is no obligation on the part of the Railways ~~xxxxxxx~~ to make ^{all} appointment on the 970 posts, which were initially advertised. They have also stated that the Commission has published the results of the successful candidates only and it would not be practicable to communicate each and every candidate their individual performance. It has been specifically stated that the applicant's merit was lower and he did not find place in the list of 551 candidates.

6. The applicant has filed a rejoinder affidavit in which the contentions made in the DA have been reiterated. It has been denied that ~~xxxx~~ the General Manager, Northern Railway had reduced the vacancies from 970 to 720 as no such reduction was ever notified nor has the General Manager any power to reduce any number of vacancies.

7. We heard learned counsel for both the parties and perused the record carefully.

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8. Sri KML Hajela, learned counsel for the applicant relied on the decision of the Hon'ble Supreme Court in N.T. Bevin Katti Vs. Karnataka Public Service Commission, AIR 1990 SC 1233 in support of his argument that total number of posts advertised cannot be reduced arbitrarily.

9. We have gone through the aforesaid decision. In this case the State Government revised the approved list prepared by the Karnataka Public Service Commission on the ground that the reservation for SC/ST and other backward classes have not been made in accordance with the directions and procedure contained in a subsequent G.O. pursuant to the direction of the State Government, the Commission prepared the select list afresh after making reservation in accordance with the procedure prescribed in the subsequent G.O. The applicant's name ^{which} had figured in the earlier ^{list} ~~list~~ did not figure in the revised list. The Hon'ble Supreme Court held that the revised instructions regarding reservation would not apply to the selection in respect of which advertisement had been issued prior to the issuance of the revised order.

10. It is clear that the controversy in the aforesaid case turns on an entirely different point and this decision does not advance the plea of the learned counsel for the applicant that the vacancies once published ^{cannot} ~~be~~ be reduced.

11. The learned counsel for the applicant has also sought reliance on the decision in the case of Shankersan Dash AIR 1991 SC 1612 and also the case of Ms. Neelima Shangla AIR 1987 S.C. 169. We have gone through the decisions in both the cases. Neither of these in any way advances the case of the applicant. In the case of Shanker ^{it} ~~h~~ ^{has} been specifically stated that ordinarily a notification merely amounts to an invitation to qualified

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candidates to apply for recruitment and on their selection they do not acquire any right to the posts. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or some of the vacancies have to be taken by them for appropriate reasons.

11. In the case before us the applicant did not figure in the merit list. Even if, he had figured in the merit list, he would not have acquired indefeasible right to be appointed. Also there is no legal obligation on the part of the Railway authorities to fill up all the posts which were initially notified. The respondents have specifically stated that subsequently the General Manager, Northern Railway, reduced the number of posts from 970 to 720. There is nothing in the pleadings to indicate that such reduction in the number of posts to be filled in any way was arbitrary or capricious. The explanation given by the respondents for declaring the list of only 551 candidates as against 720 vacancies does not appear to be unreasonable.

12. In view of the foregoing, we find no merit in this application. The same is accordingly dismissed. The parties shall, however, bear their own costs.

J. H. Verma
Member (J)

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Member (A)

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