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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

.....
(Registration O.A. No. 1072 of 1988)

Madam Mohan Shukla.....Applicant

Vs.

Union of India & Others.....Respondents

Hon'ble Mr. K.Obayya, Member (A)
Hon'ble Mr. S.N.Prasad, Member (J)

(By Hon.Mr.K.Obayya, A.M.)

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed for setting aside the order dated 10.6.1988 (Annexure-2) issued by General Manager (P), N.E. Railway, Gorakhpur notifying the result of selections to the post of Office Superintendent-II (O.S. II) on scale Rs. 1600- 2600/- and for declaration that the applicant is selected to the said post.

2. Briefly stated the facts of the case are as follows;

The applicant is a Head Clerk (Rs. 1400-2300/-) in the office of Chief Personnel Officer (C.P.O.), N.E. Railway, Gorakhpur. He appeared at the selection for promotion to the post of O.S. II held in 1986. The selection consisted of a written examination and interview. To be successful at selection a candidate is required to secure 60% in the written examination and also 60% in the aggregate including interview marks. The applicant was successful at the written examination and was called for interview held on 29.2.88. The results of the selection were notified on 10.6.1988 (Annexure-2) the list contained 22 names, but the name of the applicant was not included in that list of successful candidates.

3. It is contended by the applicant that total marks for interview are 20, and the interview

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consists of 4 heads, namely Personality, Address, Leadership, Academic/Techincal Qualfication. For each head the maximum marks are 5, he is eligible for 5 marks under the head-academic qualification. He was awarded a total of 9 marks for interview which shows that only 4 marks were given under the other three heads. This according to the applicant is arbitrary and on subjective assessment. He should have been given 15 marks out of 20 for interview. The applicant alleges that he was given 57 marks total in the aggregate, thus falling short of selection by 3 marks and he would have been selected if marks were awarded correctly.

4. The application has been contested by the respondents. According to them, selections were made in accordance with the instructions of the Railway Board. The applicant has not represented against Constitution of the Selection Board, on the other hand he appeared at the selection and had been declared unsuccessful, he can challenge the selection and Law of estoppel and acquiescence will apply. It is stated that the 4 heads namely Personality, Leadership, Address, Academic & Techincal Qualifications are considered under one head for award of marks and that there is no break up of the heads for awarding marks seperately on each head and it is the objective satisfaction of the Members to assess the applicant and award marks. It is also stated that there is no bar for evaluating the answer book by the same person setting up the question paper. It is their case that the applicant has not secured marks necessary to be declared successful and consequently he was not included in the list of successful candidates.

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5. In the Rejoinder, the applicant reiterated the stand taken in the claim petition and affirmed that the selection was not made in accordance with Rules.

6. We have heard the counsel of the parties. We have also carefully gone through the record. The controversy is whether the selections were held properly in accordance with rules and whether the applicant merited more marks in Personality, Address, Leadership, etc, than what was awarded to him by the Selection committee. We have examined the proceedings of the selection committee.

The committee consisted of 3 officers. Pratap Singh, Dy. C.E./Planning, Balram Singh Dy. C.M.E./Diesel and Kundan Chaudhary Dy C.P.O./W.U.&U. In para 3 of the proceedings dated 7.4.88 it is indicated that 40 candidates, who qualified in the written test were called

to appear in Viva-Voca held on 29.2.88 and on 25.3.88

and all the candidates except T.P.Dubey appeared and Shri Dubey could not appear as he was under Police

Custody. The selection committee recommended list of 21 candidates including one S.C. for empanelment to the post of O.A.II on provisional basis and it would appear that the panel was approved by C.P.O. on 12.4.88. The marksheet shows that marks were awarded under the heads, record of service, seniority, personality, address, etc, written tests and viva voca. All the selected candidates secured 60% and above and the applicant secured 57 marks.

Thus the record clearly shows that the applicant has not secured the prescribed qualifying marks of 60%.

Consequently he ^{was not} selected. On the question whether

separate marks ^{under} should be awarded in the head, personality, address, leadership etc it was contention of the learned counsel for the respondents that there are no instructions that in this head marks should be given separately.

His submission was that the selection committee

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consisted of Senior Officers and the committee assessed the candidates and awarded marks. We have carefully gone through various circulars of the Railway Board. Copies of which are available as annexures, to the claim petition and the Rejoinder. We have not come across any instruction to the effect that each head, Personality, Leadership, Address etc should be assessed and given marks separately. The learned counsel for the applicant also has not brought to our notice any instruction in this regard. In the absence of any instruction to the contrary we do not consider that awarding of marks for leadership, Personality etc under one head can be construed as irregular.

7. The applicant has annexed copies of circulars issued by the Railway Board from time to time on the subject of "Selections to various posts". The circular dated 29.4.1963 mentions that Personality, address and leadership etc should be assessed in viva voce test and in case where written test is not held for professional ability questions could be asked inviva-voce with practical bias. The circular issued by G.M., dated 6.7.1987 mentions that marks should be awarded by the members separately under different heads. The Railway Board instruction dated 5.12.84 lays down, that marks awarded for seniority should be added to the written test and if a candidate gets 60% by such addition he should be called for interview, though in the final reckoning seniority marks so added only to determine eligibility for interview, should not be counted for arriving at the overall aggregate marks obtained by a candidate. The letter of General Manager, N.E. Railway dated 3.4.87 is to the effect that a member of the selection committee who sets the

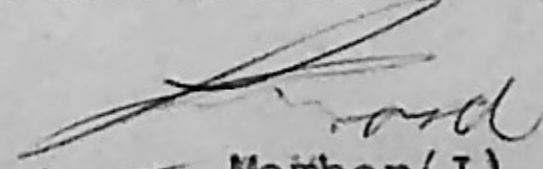
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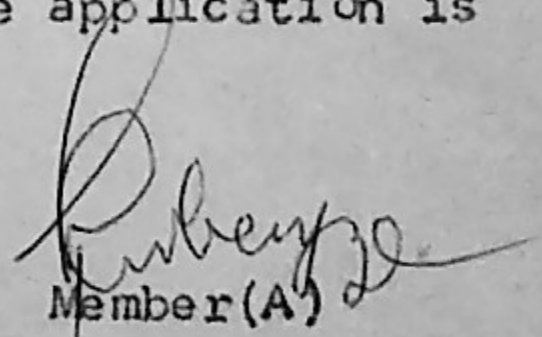
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question paper should not normally be nominated for evaluating the answer book. The Railway Board has observed, however, that the entire Board is responsible for the selection proceedings.

8. The above instructions are in the nature of guidelines for the selection committees to be followed. It is, however, the selection committee as a body which is responsible for selection proceedings. In this case the selection committee for assessing the candidates has made assessment by unanimous approval and merely because there is only one marking by the committee as a whole and that individual members have not given marks separately the proceedings cannot be held to have been vitiated unless it is shown that they were in grave error and failed to adhere to statutory provisions relating to the selections. It is well settled that there cannot be a judicial review as to the assessment by the selection committee which is an expert body. The Tribunal cannot go behind the assessment made by the selection committee and make its own assessment.

9. Admittedly the applicant has failed to qualify in the selection and that for the reasons discussed above we do not see that there is any irregularity or illegality committed by the selection committee in the selection proceedings. In these circumstances we are of the opinion that the application is without any merit and is liable to be dismissed. Accordingly the application is dismissed with no order as to costs.


Member (J)


Member (A)

24th September, 1991.

(sph) Twenty fourth Sep 1991