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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 18th day of September, 1996

Original Application No. 641 of 1991

District : Varanasi

CORAM:-

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

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

Radhey Shyam Singh, Staff No. 0433,

Superintendent Spectrography,

Chemist and Metallurgist Department,

Diesel Locomotive Works, Varanasi.

(By Sri GK Singh & Sri A.P. Sahi, Advocates)

. . . . . Applicant

Versus

1. Union of India, through the Ministry of Railways, New Delhi.
2. General Manager, Diesel Locomotive Works, Varanasi.
3. General Manager (Personnel), Diesel Locomotive Works, Varanasi.
4. Sri Bankey Bahadur (SC), Staff No. 2081, Superintendent Spectrography, Chemist and Metallurgist Department, Diesel Locomotive Works, Varanasi.

(By Sri Amit Sthalekar, Advocate)

. . . . . Respondents

O R D E R (O\_r\_a\_l)

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

This application was filed challenging the panel declared by the respondents by impugned order dated 1-8-1990 by which the four candidates including respondent no. 4 were declared as qualified in the written test held for selection to the post of ACMT Group 'B' and were directed to appear in the viva voce test. He has

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prayed that the said order be quashed and a direction be issued to respondent nos. 2 and 3 to consider the case of the applicant as submitted in various representations filed by him. He has also prayed for a direction to the respondents to hold a fresh selection in accordance with the seniority list.

2. The applicant has stated in the OA that he figured at Serial No. 6 in the seniority list of the Superintendent Spectrography Department whereas respondent no. 4 figured at Serial No. 15 in the said list which was issued through a letter dated 15-6-1988. However, when the selection for the post of 3 ACMTs Group 'B' was notified, among 10 persons called for the selection, respondent no. 4 figured at Serial no. 8. His contention is, therefore, that as respondent no. 4 was at Serial No. 15 of the seniority list, he should not have been called to appear for the selection test. He filed representation immediately after the selection was carried out which was followed by several other representations but there was no response. The respondents in fact proceeded to hold viva voce test of the selected candidates including respondent no. 4. This led the applicant to file this OA seeking the relief aforementioned.

3. The respondents have filed a counter affidavit in which it has been clarified that the applicant was, no doubt, senior to the respondent no. 4 but the position of respondent no. 4 in the seniority list of 1988 was wrongly shown at Serial No. 15. This position was corrected in the seniority list issued subsequently by the order dated 19-1-1989 (Annexure-CA-4) in which his position was indicated at Serial No. 7-A. Therefore, the respondent no. 4 correctly figured at Serial No. 8 among the candidates called for selection test.

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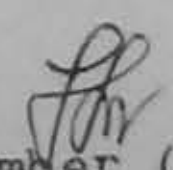


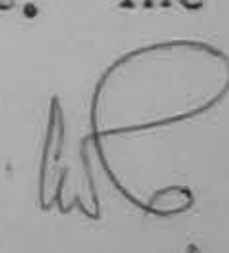
4. Further case of the respondents is that he did not appear in the viva voce test on 30-7-1990 and he submitted a representation that he was undergoing treatment from 30-7-1990 to 16-8-1990. After considering the aforesaid representation of the applicant, the competent authority allowed him one more opportunity to appear in the selection held on 8-10-1990. The applicant, however, did not appear in the said test recording his protest in the attendance sheet.

5. The applicant has not filed any RA to controvert the contention made by the respondent in the CA.

6. In the absence of the learned counsel for the applicant, we heard the learned counsel for the respondents and carefully perused the record.

7. It is clear from the facts of the case and uncontroverted averments in the CA and also Annexure-CA-4 that the position of respondent no.4 was at Serial No.7-A of the seniority list and, therefore, he figured at Serial No.8 of the list of candidates called for the written test. The respondents had, therefore, committed nothing wrong in calling respondent no.4 to appear in the test. The applicant was also called to appear in the selection test but he did not appear on the ground that he was not well. He was given another opportunity to appear which he failed to avail stating that his representation regarding inclusion of respondent no.4 had not been disposed of. It is, thus clear that the respondent himself was recalcitrant and in such a situation, he cannot expect any relief. We do not find any merit in this case and accordingly dismiss the same. The parties shall, however, bear their own costs.

  
Member (J)

  
Member (A)