

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BECNH
ALLAHABAD.

(A2)

Allahabad this the 18th day of July 1996.

Original application No. 1448 of 1992.

Hon'ble Mr. T.L. Verma, JM
Hon'ble Mr. D.S. Baweja, AM

Kumari Sadhana Kumari, D/o Sri
Brijendra Singh, Qt. No. 717/CD
New Central Colony, Mughalsarai,
District Varanasi.

..... Applicant.

C/A Sri A.K. Sinha
Sri P.K. Kashyap

Versus

1. Union of India, through General
Manager, Eastern Railway Calcutta,
Fairly palace, Strand Road, Calcutta.
2. Chief Personnel Officer, Eastern
Railway, Fairly Palace, Strand Calcutta.
3. Divisional Railway Manager, Eastern
Railway, Mughalsaria.
4. Senior Divisional Personnel Officer,
Eastern Railway, Mughalsaria.

..... Respondents.

C/R Sri A.K. Gaur

ORDER

Hon'ble Mr. D.S. Baweja, AM

The applicant has challenged her non selection
in the panel dated 28.9.92 notified for recruitment
of physically handicapped (Orthopedically) for Group
D posts and also prayed for quashing of the panel.

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2. The applicant has stated her case as follows. Divisional Railway Manager, Eastern Railway Mughalsarai invited applications for appointment in Group D against the handicapped quota for orthopedically handicapped through the various Employment Exchanges in the jurisdiction of the Mughal Sarai Division. The applicant's name was sent by Employment Exchange Varanasi. She appeared in the interview on 18.8.92. The selection committee comprised of three members which included a doctor. The panel of the selected candidates was notified on 28.9.92. The applicant is aggrieved by her non selection and has filed this application praying quashing of the panel notified on 28.9.92.

3. The applicant has challenged the impugned panel dated 28.9.92 and not selecting the applicant on two grounds (a) the applicant was most handicapped amongst the selected candidates. (b) The applicant was not judged properly as the doctor nominated on the selection committee was not an orthopedic expert and thereby the whole selection has been done arbitrarily.

4. In the counter affidavit, the respondents have strongly opposed the contentions of the applicant. It is submitted that recruitment was done for 23 vacancies and 286 candidates were called for interview. The minimum educational qualification was VIII standard passed. The Divisional Railway Manager nominated the selection committee as per the directions laid down by Chief Medical Officer vide letter dated 23.6.92 according to which a medical officer is to be nominated on the selection

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committee to adjudge the physical fitness of the candidates for the job. There is no provision that Orthopedic expert has to be ^a member of selection committee. It is also emphasized that ^{the} percentage of handicap was not the sole criteria for selection and higher percentage of handicap did not mean better suitability for the job. The selection committee did not find the applicant suitable for the post. The selection has been done strictly following the extant rules. In view of these facts, the grounds taken by the applicant are not tenable and the application is devoid of merits.

5. During the pendency of the application vide order dated 13.10.92, a stay was granted as under:-

"Any selection made during the period shall be subject to the final order passed in this case"

6. We have perused the material placed ^{on record} through the application, counter and rejoinder affidavits. We have also carefully considered the pleadings made by the parties during the hearing.

7. The main plank on which the impugned panel has been challenged by the applicant is that the doctor nominated on the selection committee was not an orthopedic specialist. Therefore selection was done in an arbitrary manner and this resulted in non selection of the applicant even though being most eligible. The respondents have averred that as per the directions laid down by Chief Medical Officer vide letter dated 23.6.92 (not brought on record) a medical officer is to be the member of the selection committee to adjudge the physical fitness for

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the job of Group II post. There is no rule which lays down that the nominated doctor has to be an orthopedic specialist. The applicant has simply stated these submissions in ~~the~~ ^{his} rejoinder. In the application also it is not mentioned that on what basis, it is contended that the nominated doctor has to be orthopedic specialist. ~~Following~~ ^{Following} rules, if any, have not been quoted. In our opinion it is for the concerned Department to lay down the ~~selection~~ ^{rules for the} committee. The nomination of the members of the selection committee can be challenged only when there is violation of the laid down rules. The applicant has not been able to indicate the rules as per which the doctor nominated on the selection committee had to be orthopedic specialist, and violation of same vitiated the selection. Further since the candidate having appeared in the selection before the selection committee, when not selected cannot come around to challenge the composition of the selection committee. In the light of these facts, we are unable to see any merit in this contention of the applicant.

21. The applicant has also averred that she was most handicapped among the candidates and therefore deserved to be selected. Indeed, some influential candidates with over 20 per cent handicap have been selected. This contention has no force in it. The applicant has not brought out that percentage of handicap was to be criteria to be followed for adjusting suitability. We are in agreement with the submission of the respondents that higher percentage of the handicap did not mean more suitable. In the absence of any such stipulation for the percentage of handicap it is for the selection committee to determine

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the suitability.

9. In a challenge involving the recommendations of the duly constituted selection committee, the interference by the Court/Tribunal is involved only when it is shown that the consideration by the committee is vitiated by malafide or there is a patent violation of the statutory provision; or rules. As brought out above in para 7 and 8, we we are unable to find any violation of the laid down rules in the constitution of the committee. There is, ^{no} also averment of malafide made ~~out~~ by the applicant. The allegation of arbitrariness in selection is also not born by the facts. We therefore find no grounds for any judicial interference as prayed for.

10. During the hearing, the respondents have also pointed out that the candidates who have been selected and placed on the panel and also posted have not been made party. Since the quashing of the panel notified is prayed for, this relief is not maintainable without the impleading the necessary parties. Therefore the application deserves to be dismissed on this score alone apart from consideration on merits.

11. In premise of the above discussions, the application is devoid[^] of any force and substance and the same is hereby dismissed. The stay order dated 13.10.92 is also vacated. No order as to costs.

Sharma
Member - A

Sharma
Member - J