

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 1st DAY OF APRIL, 1998

Original Application No. 122 of 1995

HON.MR.S.DAYAL, MEMBER(A)

HON.MR.S.L.JAIN, MEMBER(J)

Prafulla Kumar Jaiswal  
Son of Sri Chandra Shekhar Jaiswal  
R/o Dilkusha Park, Allahabad

... . . Applicant

(By Adv: Sri V.K. Jaiswal)

Versus

1.

Union of India through General Manager  
Northern Railway, Baroda House,  
New Delhi.

2.

The Chairman,  
Railway Recruitment Board,  
Allahabad.

O R D E R

HON.MR.S.DAYAL, MEMBER(A)

This is an application u/s 19 of the Administrative Tribunals Act 1985.

2. The applicant has sought the relief of a direction to the respondents to refrain from cancelling the candidature of the applicant on the ground that he had not passed B.A. final examination before 1.9.93 and declare the result of the applicant as selected for the post of Asstt. Station Master.

3. The facts of the case as mentioned in the application are that the Chairman Railway Recruitment Board Allahabad who is respondent no.2 in this case had advertised in Employment news on 31.7.93 for selection of Asstt. Station Master for Lucknow and Muradabad division alongwith other posts and the advertisement was published in employment news on 7-13.8.93. It is the case of the applicant that he had stated in his application form that he had already appeared in B.A. final examination and awaited his result. Inspite of such a declaration he was allowed to appear in

the written examination in which he was declared successful and later on <sup>in</sup> ~~in~~ viva-voce. His name did not appear in the final result of selected candidates. On an enquiry, he came to know that his candidature has been cancelled because he had not passed his B.A. examination before 1.9.93. He claims that 121 posts were to be filled up by the examination but only 106 candidates were declared successful and 15 are still vacant. His candidature should not have been cancelled because it is not his fault that he could not get the result before 1.9.93 as the examinations were delayed by the University of Allahabad.

4. The arguments of Sri V.K. Jaiswal learned counsel for the applicant and Sri Prashant Mathur learned counsel for the respondents have been heard and the pleadings on record have been considered.

5. The learned counsel for the applicant has firstly raised the question of estoppel by arguing that since the applicant has been allowed to appear both in the viva voce as well as in the written examination which were held subsequent to declaration of his B.A. result, the respondents are estopped from now questioning his candidature and cancelling it at a later stage. He has cited the judgment of Allahabad High Court in 'Dinesh Kumar Garg Vs. Public Service Commission, U.P. Alld & Ors 1994 HVD(Alld) Vol-1. In the case referred to the recruitment was being made by U.P. Public Service Commission for the post of Information Officer and after interview of the applicant was over, his candidature was rejected on the ground that he did not have working knowledge of Urdu. The applicant had submitted a certificate in support of his Urdu qualifications to show that he had offered/as one of his subject in class VIII, hence the cancellation of candidature of the applicant in the case referred to was considered arbitrary and without jurisdiction. The bench examined the

question as to whether the applicant fulfilled essential qualifications and came to the conclusion that the petitioner had essential qualifications and therefore the candidature of the applicant should not have been cancelled without furnishing him an opportunity to show cause. The learned counsel for the applicant has also cited the case of the Apex court in 'Sanatan Gauda Vs. Berhampur University and Ors, AIR 1990 Supreme Court 1075 in which the ratio was that the result of the petitioner who had appeared in law examination should not have been withheld because the applicant possessed qualifications for admission of law course. The grounds on which the withholding of result was struck down was that the applicant had been granted admission, had pursued his studies for two years, and was granted admission card for the law examination and was permitted to appear in the said examination. It was only at the stage of declaration of the result that the objection to his eligibility to admission to law course was challenged. The second case is not imparimateria with the case before us. As regards the first case again the issues are different from what we have before us. In the case before us it is admitted that the last date for admission of application was 1.9.93. The applicant had not been declared successful in B.A examination by that date. He was declared successful only in the month of November as can be seen from mark sheet dated 9.11.93. It was clearly stated in item no.6 of the advertisement made for the post that the applicant should ensure that he possesses the prescribed educational qualification and if result is to be declared, the result should be declared before 1.9.93.

6. Learned counsel for the respondents has cited the case of Harpal Kaur Chahal Vs. Director Public Instructions Punjab and another 1996 Supreme Court cases (L&S) 226. It has been laid down by the Apex court in this case that the candidates should possess all the qualifications required

on the last date fixed for receipt of applications. This case is similar to the case before us and the ratio of the case is fully applicable.

7. We, therefore, do not find any merit in the application and dismissed the same. There shall be no order as to costs.

J.Y  
MEMBER (J)

  
MEMBER (A)

Dated: 1st April, 1998

Uv/