

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD.

Allahabad this the **24** day of **January** 1996.

Original Application No. 1154 of 1995

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

B.N. Pathak, S/o late Shri
Dukhi Pathak, R/o 900 C.D.
Shastri Colony, Mughalsarai,
Varanasi.

..... Applicant.

C/A Sri Iqbal Ahmed

Versus

1. Union of India, through
General Manager, Calcutta,
Eastern Railway.
2. Chief Workshop Manager, P.O/
M.G.S. Eastern Railway,
Mughalsarai.

..... Respondents.

ORDER (ORAL)

Hon'ble Mr. T.L. Verma, JM

The applicant was initially appointed as Khalasi and in course of time promoted to the rank of Head Clerk grade 1400-2300 with effect from 11.12.92. According to the applicant he became due for promotion to the post of Superintendent grade Rs. 1600-2660. On his qualifying in the written test held on 8.8.95, he appeared in the Viva-voce examination which he failed to qualify. The allegation of the applicant is that one of the Member of the Promotion Committee Sh. R.K. Razak was biased as he has filed certain cases before the Prescribed Authority against illegal deduction

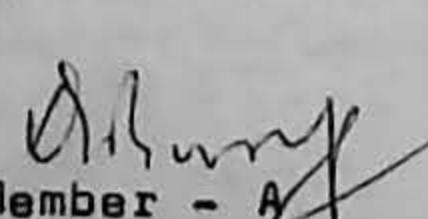
Contd....2....

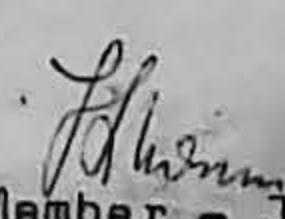
from his pay. The applicant urges that he has not been given marks necessary for qualifying in the viva voce on account of the bias on the said Sh. Razak as a result he has not been included in the panel prepared for appointment on the said post.

2. The entire selection has been challenged on the ground of malafide, and prayer has been made that the entire selection proceedings be quashed and direction be issued to the respondents for holding a fresh viva voce examination by any other impartial board. We have heard the learned counsel for the applicant and perused the record. From the submission made in the application it is clear that Sh. R.K. Razak who is attributed malafide had nothing to do with the alleged illegal deduction of the wages of the applicant, as the board comprised of three members. There is nothing on the record to show that Mr. R.K. Razak enjoys the decision as to prevail upon the two other members and manage the result in the manner he like.

3. It is true that direct evidence of malafide cannot be produced, the same can be proved by bringing on record circumstances as may lead to reasonable inference of malafide. In the instant case as we have already seen above there is hardly any material as may lead to such an inference. We, therefore, find no merit in this application and the same is dismissed on the admission stage. We were informed that the applicant has submitted representation which has not been decided. This order will not preclude the respondent from passing the reasoned and speaking order on the representation of the applicant within the reasonable period i.e. three months.

Arvind.


Member - A


Member - J