

O.A. 637/99
alongwith
O.A.645/99
O.A.651-A/99
O.A.657/99
O.A.667/99
O.A.741/99
O.A.710/99

16th/July, 1999

Hon. Mr. S.K. Agrawal, J.M.

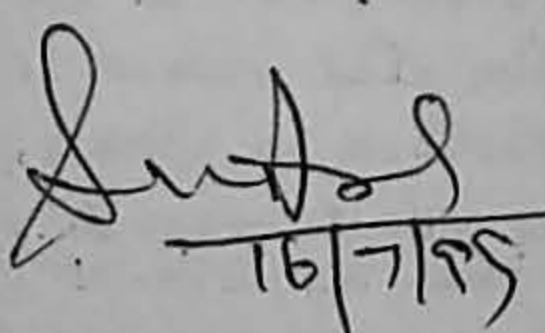
The above original applications have been filed by the applicants before this Tribunal with the prayer to quash the order dated 10/5/99 and press communication dated 17.5.99 and to direct the respondents to appoint the applicants in pursuance of their selection for the post of Assistant Station Masters.

An interim prayer has also been made by these applicants to restrain the respondent no.4 from holding fresh selection in pursuance of the order dated 10.5.99(annexure-1) and press communication dated 17.5.99(annexure-2).

The case of the applicants in brief is that the applicants submitted applications in response to the advertisement published in daily newspaper-Dainik Jagran dated 07.3.97 for 50 vacancies of Assistant Station Masters, and they appeared in the written test held on 28th December, 1997. The result of written test was declared on 10.1.1998 and all these applicants were also declared successful. The applicants also appeared in the interview and physiological test and ultimately final panel was declared on 02.3.98 wherein the name of the applicant was also included in the panel for appointment for the post of Assistant station Master but suddenly the said final selection was cancelled vide order dated 10.5.99 which was published in Hindustan Times daily on 17.5.99. It is stated by the applicants, that the cancellation of panel was arbitrary, illegal and without any justification. It is further stated that the applicants have accrued a civil right for appointment after selection and panel cannot be cancelled arbitrarily in this way, therefore, they have requested the interim relief as mentioned above.

The counter-affidavit was filed in O.A. No.

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645/99, O.A.601-A/99 and O.A.667/99. In the counter-affidavit, it is stated that cancellation of panel was perfectly legal and valid. It is further stated that the impugned order was issued after the matter was investigated by C.B.I., Lucknow and Railway Board's Vigilance/Zonal Vigilance and Railway Board took the decision on the basis of report and issued the appropriate orders for cancellation of the panel and re-examination which are perfectly legal and cannot be interfered.

The rejoinder was also filed, reiterating the facts stated in the O.A.

Heard, the learned lawyer for the parties on interim prayer and also perused the whole record including the record produced by the learned lawyer for the respondents. Learned lawyer for the applicant has argued that after vigilance inquiry, nothing was found substantial. He has further argued that corruption charges were not proved and other allegations against the said examination are formal in nature, therefore, there was no justification to cancel the panel and to hold the re-examination. He has also argued that huge amount of money will be spent in re-examination, therefore, it will be appropriate to stay the operation of the impugned order. In support of his contention, learned lawyer for the applicant has referred 'Jagmohan and Others Vs. Union of India and Others', decided by the Allahabad High Court on 19.12.1997. On the other hand learned lawyer for the respondents has argued that the respondents are justified in cancelling the selection as mass irregularities were noticed after thorough investigation done by the C.B.I. and Vigilance Cell of the department and the decision has been taken by the highest authorities of the Railway after careful consideration. He has further submitted that only those candidates will appear in the examination which were earlier permitted to appear, therefore the applicants will not suffer any irreparable injury. In view of this, he has submitted that no case of interim relief is made out in favour of the applicants.

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I have given thoughtful consideration to the rival contention of both the parties and also perused the whole record.

In 'S. Prakash Vs. K.M. Kurian 1999(2)SLR page 595(SC)', the Hon'ble Supreme Court held "that a candidate selected and kept on the select list does not acquire any absolute right to appointment. It is open to the govt. to decide how many selected candidates are to be appointed to service on the basis of ratio or percentage prescribed in the service rules. A candidate has no vested right to get the process completed except that the govt. could be required to justify its action on touch stone of Article 14."

In the instant case, the decision to cancel the panel/selection has been taken at the high level based on certain investigation/vigilance report and it will not be proper to comment so much on the justification of cancellation of panel/selection at this stage as it may prejudice the whole case.

After perusal of the whole record and ~~pet~~ pleadings of the parties, I am of the considered view that process of selection once started, should not be stopped, therefore, there is no justification to ~~say~~ stay the operation of the orders dated 10.5.99 and 17.5.99 in view of the fact that date of examination to be held on 18.7.99 has already been fixed and in the said examination, applicants can also appear alongwith others. However, it will be in the interest of ~~justice~~ justice to provide that final result of selection may not be declared without the leave of this Tribunal.

In view of the discussion as mentioned above, the operation of the orders dated 10.5.99 and 17.5.99 cannot be stayed. However, the respondents are directed not to declare the final result of the selection of Assistant Station Masters without the leave of this Tribunal.

/M.M./

John A. S. Johnson
Judicial Member