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RESERVED  
on 06.12.2012

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD**

(ALLAHABAD THIS THE 21<sup>st</sup> DAY OF December 2012)

**PRESENT:**

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER- J**  
**HON'BLE MS. JAYATI CHANDRA, MEMBER -A**

**ORIGINAL APPLICATION NO.414 OF 2007**  
(U/s, 19 Administrative Tribunal Act. 1985)

Kiran Bala Srivastava wife of Shri Om Prakash Srivastava, resident of Mohalla Adhiyari Bagh, South (Chowk) near Maddeshiya Traders, Gorakhpur, District Gorakhpur.

.....Applicant

By Advocate: Shri S.K Om

Versus

1. Union of India through its Secretary, Ministry of Rail, New Delhi..
2. The General Manager (Personnel), North Eastern Railway, Gorakhpur.
3. N.E. Railway Balika Inter College, Gorakhpur thorough its Principal.

..... Respondent

By Advocate : Shri P. Mathur

**ORDER**

**BY HON'BLE MS. JAYATI CHANDRA, MEMBER -A**

Through this O.A. filed under section 19 of Administrative Tribunal Act, 1985 the applicant has sought to quash letter No. Ka/254/14/Gopniya/PGT/Balika Inter College dated 07.03.2007 (Annexure A-1) by which the selection process has been cancelled and notification dated 13.03.2007 (Annexure A-1 and A-2 respectively) by which fresh selection has been notified. He has also sought a direction in the nature of mandamus commanding the respondents to promote her as Lecturer in Political Science as a consequence.

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2. The applicant has stated that while she was working as PGT (Trained) Teacher at Balika Inter College, Gorakhpur, the respondents took a decision to fill up one post of Lecturers in History and one post of Lecturer (Political Science) in the pay scale of Rs.6500-10500 by their notification dated 30.12.2005. The eligible candidates for the post of Lecturer (Political Science) were Smt. Rekha Gupta, Smt. Kiran Bala Srivastava(applicant) and Shri Satya Bhanu. The post of Lecturer (History) in the pay scale of Rs.6500-10500 (reserved for SC), the eligible candidates were Inidra and Shri Satya Bhanu. Pursuant to the notification, the applicant along with other eligible candidates was declared successful for the post of Lecturer (Political Science) (Annexure A-3) in the written test held on 21.2.2006. One of candidates Shri Satya Bhanu was also eligible for the post of Lecturer (History) and he has since been granted appointment on the same scale. The other two candidates Smt. Rekha Gupta and applicant were called for interview on 21.3.2006, 5.4.2006 and 17.4.2006 but no interview was held. Interview was finally held on 26.4.2006, but no final result was declared. Finally, the interview, which was held on 26.4.2006, was cancelled and another interview was fixed by order dated 25.1.2007 (Annexure A-6). The applicant alone was called to appear for interview on 1.2.2007. The applicant appeared for the interview on 1.2.2007 but by the impugned order dated 7.3.2007, the respondent No.2 cancelled the entire selection. The cancellation order is cryptic and does not disclosed any grounds for the cancellation although it is mentioned that both the written test, which was held on 21.2.2006 as well as interviews, which were held on 26.04.2006 and 1.2.2007 have been cancelled by General Manager on 6.3.2007. The applicant feels aggrieved that respondents have cancelled only one of selection to the

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post of Lecturer (Political Science) and not that of selection for the post of Lecturer in History whereas both the posts were notified by a common order. The cancellation order is against the Guidelines issued by the Selection Board of N.E Railways, which states that unless there are procedural irregularities, the entire selection process cannot be cancelled. The entire process has now been restarted and field of eligible candidates has been widened to include others who were not eligible when the original vacancy arose.

3. The respondents have stated in the counter affidavit that although two posts, one each of Lecturers (History) and (Political Science) were advertised by the notification dated 30.12.2005, separate Selection Boards were set up for conducting separate selection on the two posts. As Satya Bhanu was a common candidate for both posts he was appointed to the post of Lecturer (History). He had declined to appear in the interview for the post of Lecturer (Political Science). Therefore, two candidates Rekha Gupta and the applicant were declared successful in the written test and were called for the interview. For certain unavoidable reason, interviews scheduled for 21.03.2006, 5.4.2006 and 17.4.2006 could not be held but interview was held on 26.4.2006. Result was declared by letter No.Ka/252/254/4/Balika/II dated 28.4/09.5.2006 (Annexure CA-1), which was communicated to the Principal of Balika Inter College, Gorakhpur. In this interview, no candidate was found eligible, therefore, it is wrong to say that result of interview held on 26.4.2006 were cancelled. Further, based on certain complains with regard to the selection, a vigilance enquiry held. Although the applicant was interviewed on 01.02.2007 but due to irregularities, the General

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Manager vide order dated 06.03.2007 cancelled the entire selection process.

4. Rejoinder and Supplementary Counter Affidavits etc. have also been filed on behalf of the applicant and respondents and original selection record has also been perused by us.

5. We have heard learned counsel for the parties and perused the entire records on file. The original records in the case were examined by us.

6. It is true that two candidates appeared for interview on 26.04.2004 and none was selected. At this point some vigilant complaint appears to have been made. An enquiry was held and as per original record (PPC/106) dated 21.12.2008 following irregularities was committed:-

- “(i) One candidate secured 15.5 marks in written test was called for viva-voce test violating provisions of para 10 of Railway Board’s letter No. E (NG)1-98/PM-1/17 dated 20.10.1999.*
- (ii) Selection Committee members adopted improper method for viva-voce test by asking the candidates to give their replies in writing during viva voce and also not taken it on record as well as awarded less marks for Personality Address, Leadership and Educational Qualification violating Railway Board’s instructions ignoring the attributes featuring in the ACR. G.M after considering the observations of Vigilance based on scrutiny of records has decided that fresh viva-voce test be held which was conducted on 24.04.2006 by nominating fresh selection Board and the results published in accordance with extant Rules”.*

7. It was decided at the level of General Manager that fresh viva voce was to be held by nominating a fresh Selection Board. the

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interview of the applicant as the lone eligible candidate was held on 1.3.2007. The proceedings of the selection committee was forwarded to Chief Personnel Officer who examined the same and recommended to General Manager by his Note dated 06.02.2007 (NP - 1 - 4) of original record that non-inclusion of the other candidate, Rekha Gupta was wrong and the entire selection process be cancelled.

8. It is certainly not understood how the General Manager agreed to one set of recommendations in December 2006 and then with another set of recommendations in Feb. 2007 ! And both set of recommendation refer to provision of IREM. Such see-saw process of decision making, apart from violating the rights of an employee creates a condition of disinterest and lack of motivation in the Organization.

9. In this case, there is no allegation as to any irregularity/illegality committed in the written test. There is no case that any kind of bias or favouritism was shown to any one candidate over the other in the marks secured by the two candidates viz, Rekha Gupta and applicant.

10. The O.A. is allowed. Orders dated 07.03.2007 and 13.03.2007 (Annexures A-1 and A-2) are set aside. Matter is remanded back to Respondent NO.2 to take a fresh decision in the light of the relevant Rules regarding the inclusion of both or only one of the candidates on the basis of marks obtained by them in the written test held on 21.2.2006 and call for a fresh interview to be conducted in accordance with departmental rules by a fresh Panel. This exercise is to be carried out within two months from the date of receipt of a certified copy of this order. However, the respondents are free to

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conduct fresh selection with fresh eligibility list in case no suitable candidate is found as the result of the fresh interview. No costs.

*J. Chandra*

Member (A)

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Member (J)

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