

Reverision

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

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O.A. No. 547 OF 1987.

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DATE OF DECISION 11th August, 1992

Shri V.R. Nimavat, Petitioner

Mr. B.B.Gogia, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. R.M. Vin, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri V.R. Nimavat,
5, Janata Janardan Society,
Aerodrome Road,
Rajkot.

..... Applicant.

(Advocate: Mr. B. B. Gogia)

Versus.

1. Union of India
owning & representing
Western Railway, through
General Manager,
Western Railway,
Churchgate, Bombay.
2. Financial Adviser & Chief
Accounts Officer,
Western Railway,
Churchgate, Bombay.
3. Shri D.R. Bhandula, AAO
Office of the SAO,
ITA Western Railway,
Delhi.
4. S.P. Rajgore, AAO,
Office of the DAO,
Western Railway,
Bhavnagar Para.
5. B.L. Mathur, ADAO
Office of the DAO,
Western Railway, Rajkot.
6. B.D. Sharma, AAO,
Office of the SAO (RE)
Western Railway,
Kota.
7. D.G. Advani, AAO,
Office of the FA & CAO,
Western Railway,
Churchgate, Bombay.
8. R.R. Dhavan,
Section Officer, A/c
Railway Board's office,
New Delhi.
9. S.L. Garg, AAO ^D
Office of the Sr. QAO,
Western Railway,
Bombay Central.
10. J.P. Oza, Section Officer,
(A/c) Office of the QAO
Western Railway, ^D
Bhavnagar Para.
11. M.H. Advani, TTA,
Office of the Dy. CAO(TA)
Western Railway, Ajmer. Respondents.

(Advocate: Mr. R.M. Vin)

J U D G M E N T

O.A.No. 547 OF 1987

Date: 11/08/1992

Per: Hon'ble Mr.N.V.Krishnan, Vice Chairman.

The applicant is a Section Officer in the Divisional Accounts Office, Western Railway, Rajkot. His grievance relates to the non-inclusion of his name in the panel of persons selected by the Selection Board for the post of Assistant Accounts Officers Class II and notified on 26.10.1987, (Annexure A-6) by the second respondent, the Financial Advisor and Chief Accounts Officer, Western Railway, Bombay. He alleges that he was in the field of consideration for selection to the above post against the 75% quota reserved for the promotion of Class III officials.

2. It is not dispute that, for this purpose, the applicant appeared in a written examination and he was that he would also called for interview. It is stated by him that after he wrote the written examination, his name was considered by a departmental screening committee and he was promoted as Assistant Divisional Accounts Officer by the order dated 13.7.87(Ann.A-4) issued by the second respondent. His grievance is that, nevertheless, he has now been reverted to the substantive post of Senior Section Officer by the second respondent, by the impugned letter dated 26.10.87 (Ann.A-5).

3. On the same day, the second respondent has issued the panel of names of persons selected for appointment as Assistant Accounts Officers Class II (Ann.A-6). This panel does not include the name of the applicant. The applicant submits that this is a gross violation of Rule 205 of the Indian Railway Establishment Manual.

4. In the circumstances, he seeks a declaration that the Annexure A-6 panel is illegal and void and that he is entitled to be promoted as Assistant Accounts Officer Class II from the date his junior has been promoted to that post, on the basis of the impugned panel at Ann.A-6. He also seeks to quash the order of his reversion at Annexure A-5.

5. The respondent no.1 & 2 (Railways for short) have filed a reply. The contesting private respondents, who have been impleaded have not filed any reply.

6. The Railways have contended that this is a selection post and that the applicant was duly considered by a Selection Committee which found him to be not fit for selection. They have also produced the original records of selection for our perusal.

7. The learned counsel for the applicant submits that as he has been called for interview, it necessarily follows that he has passed in the written test because this is a prior requirement for an

interview. He therefore contends that due to malice only, the Railways have deliberately failed him in the selection. He has cited a decision of the Calcutta High Court in Cap. Digvijay Dube V/s. Indian Air Lines (1990) Lab.I.C. 810, in support of the contention that an interview about 10 to 25 minutes is in appropriate to assess ones abilities.

8. We have perused the record and given our anxious consideration to the rival submissions.

9. It may be stated at the outset itself that the learned counsel for the applicant volunteered the information that the applicant has since been selected for the Class II post of Assistant Accounts Officer in the subsequent year's selection. We only note that this would not have been the case, if, as alleged by the applicant's counsel, the Railways were prejudiced against him and entertained malice towards him.

10. The judgment of the Calcutta High Court referred to by him has no application because in that case there was only an interview to judge managerial ability, while in the present case, professional ability is judged by a written test and an interview, both carrying equal marks. Further, the applicant has also not been successful in the written examination held during the process of selection.

11. We have seen the proceedings relating to the finalisation of the panel of Assistant Accounts Officers in respect of regular selection against 75% quota of vacancies for which the selection was held in June 1987.

12. We notice that an elaborate and detailed and clear proceedings have been drawn up by the departmental committee, which is in refreshing contrast to some of other proceedings seen by us, wherein attention had not been paid to details. A perusal of this record shows that the applicant has failed in the written test, the viva-voce and also in personality test, each of which carries 25 marks, out of which the applicant should have scored atleast 15 marks (i.e. 60%) as mentioned in Rule 205 of Indian Railway Establishment Manual. The mark of the written test and viva-voce, adding up to 50, are taken together for assessing professional ability as mentioned in the said Rule. He has failed in professional ability. He has also failed to secure aggregate 60% marks required for this purpose. Therefore there is no doubt that the applicant has failed in the selection and therefore could not be included in the panel.

13. The learned counsel for the applicant contended that he was the only person who has been failed in the selection test and that this also shows malice.

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14. The original records of the selection shows that in addition to the applicant, 16 others have also been declared failed, out of total of 58 persons in all. Therefore, it is not as if that the applicant has been singled out for malacious action.

15. In the circumstances, we are fully satisfied that, in the normal course of selection, the applicant could not get through and therefore his name was not included in the Annexure A-6 panel dated 26.10.87. As his earlier promotion by the order dated 13.7.87 was purely on an ad hoc basis for a period of two months or till the declaration of regular panel of Accounts Officer, his reversion from the said post, consequent upon his name not finding a place in the said panel, can not be called illegal. Therefore, we not do find any merit in this application which is dismissed.

No order as to costs.

Renu
(R.C.Bhatt)
Member (J)

N.V.Krishnan
11-8-92
(N.V.Krishnan)
Vice Chairman

vtc.