

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
~~XXXXXXXXXX~~O.A. No.
~~XXXXXX~~
~~XXXXXX~~

85

1987

DATE OF DECISION 09.08.1990

Shri Ramesh M.Tadvi, and Anr. Petitioner

Mr.B.S.Supehia Advocate for the Petitioner(s)

Versus

Union of India and others. Respondent

Mr.N.S.Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. A.V.HARIDASAN : JUDICIAL MEMBER

The Hon'ble Mr. M.M.SINGH : ADMINISTRATIVE 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?

1. Ramesh M. Tadvī,
2. Vijaykumar C. Desai,
C/o. 16, Vāvekanand Society,
Makarpura Road,
Vadodara-390 009.
(Advocate-Mr. B.S. Supehia)

.. Applicants

Versus

1. Union of India,
Through,
Railway Ministry,
Rail Bhavan,
New Delhi - 110 001.
2. Divisional Railway Manager,
Western Railway,
Baroda.
3. Ram Sagar Singh R.
4. Vijay Pal K.
C/o. Divisional Railway
Manager, Western Railway,
Pratapnagar, Baroda.
(Advocate - Mr. N.S. Shevde for
respondent No. 1 & 2
Mr. K.K. Shah for
Respondents No.3 & 4)

.. Respondents

CORAM : Hon'ble Mr. A.V. Haridasan ... Judicial Member

Hon'ble Mr. M.M. Singh .. Administrative Member

O.A. No. 85 of 1987

O R D E R

9.8.1990.

Per : Hon'ble Mr. A.V. Haridasan .. Judicial Member

The grievance of the applicants who held substantive post in class IV and are officiating in class III, is that the respondents did not publish the result of the viva-voce test held for the regular selection of employees to the cadre of Group III staff for which they participated and that undue favour has been shown in selecting respondent No. 3 and 4 who has^{ve} not qualified themselves in the written test while not including the applicants in the panel prepared after completing the selection process. It is alleged that the applicants had performed fairly well

in the viva-voce and that they legitimately hoped that their names would appear in the panel. Getting information about the panel in which the applicants' names were not included, they have filed this application ~~for~~ praying for several reliefs including production of the records of the selection and also for ^{the} ~~the~~ declaration that they have passed in the examination.

2. The application is resisted by the respondent No. 1 and 2 who have filed reply statement refuting averment contending that the respondents No. 3 and 4 have actually passed the written test and that as their names were omitted to be mentioned in the list they were informed ~~by~~ of their success in the test, they ^{and they were} ~~have~~ called for viva-voce. It was ^{made} ~~was~~ contended that no undue favour has been shown to anybody and ^{that} the selection process was completed in accordance with the rules. Respondents 3 and 4 have also filed reply statement refuting the averments made in the application.

3. With a view to satisfy ourselves about the ^{correctness} ~~genuineness~~ of the method ^{of} ~~and~~ selection, we directed the respondents 1 and 2 to produce for our perusal the tabular ^{sheet} ~~sheet~~ of the marks and the minutes of the selection committee. Mr. Shevde learned counsel for the respondents has today produced for our perusal the said records. We have ~~gone~~ through the pleadings in the case, the records produced on either side including minutes of the selection committee and tabular sheet of marks and also heard the arguments of the learned counsel.

4. ^{careful} On a/scrutiny of the selection committee proceedings and tabular sheet of ~~mark~~, we are convinced that they are genuine documents and we have no doubt that any irregularity or manipulates ^{low} have been committed in the

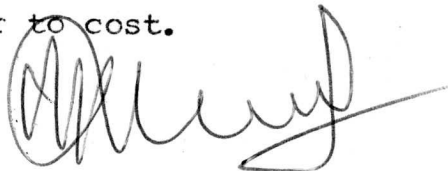
matter of selection process. The respondents 3 and 4 have obtained sufficient qualifying marks in the written examination as well as in the viva-voce. The petitioner No. 1 has got aggregated marks of 55 while the qualifying mark is 60. But the second applicant has got 65 marks. It is seen that his name is not included in the panel of selected candidates. The learned counsel for the respondents submitted that the panel contained as many names as there are vacancies though thrice ^{the} number of candidates were allowed to participate the selection process and that ~~was~~ the examination is qualifying, one among those who are qualifying the gradation will be on the basis of their seniority. So according to the learned counsel for the ~~app~~ respondents though the ^{second} applicant ^{is} has qualified ⁱⁿ the examination, because there are more persons who are senior to him, his name ^{could} should not be included in the panel. Learned counsel for the applicant has submitted that as the applicants have been working in class III on an ad hoc basis for 3 years, the ad hoc officiation should have been given due consideration and weightage and that therefore the second applicant should have been preferred to the respondents 3 and 4 who had not officiated ^{ad} in class III post at all; but the fact that respondents 3 and 4 are senior in service to the applicants, ~~it~~ is not disputed. The appointment to class III on the basis of selection ^{a process} being only ~~the process~~ of ^{promotion} selection through a departmental qualifying examination, seniority has to be given due weightage. Therefore the arguments of the learned counsel for the applicant that the second applicant should have been preferred taking into account his ad hoc officiation ^{though} that respondents 3 and 4 are senior ^{only to be} to him has ~~already~~ been rejected. Hence on an anxious consideration of the entire matter

15
ra
we are convinced that the selection process is flowless
and that it cannot be ^{n faulted} flouted for any reason.

In the result, the application fails and the
same is dismissed without any order to cost.

M M. Singh

(M M Singh)
Administrative Member



(A V Haridasan)
Judicial Member

*Mogera