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NO
Appointment

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 541 OF 1989
~~T.A. No.~~

DATE OF DECISION 27-4-1993.

Mrudula G. Raval, Petitioner

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

Versus

Union of India & Ors. Respondent s

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

CORAM :

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

The Hon'ble Mr. M.R. Kolhatkar, Admn. 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 ? ✗

Mrudula G. Raval,
Hindu, Adult,
Aged about 30 years,
Occupation: Unemployed
Add: 29/A Shreyas Society,
Srijinagar-I.
Behind Race Course &
Railway Track,
Rajkot.

..... Applicant.

(Advocate: Mr.B.B.Gogia)

Versus.

1. Union of India
Owning & Representing
Western Railway, through:
General Manager,
Western Railway, Churchgate,
Bombay.
2. Railway Service Commission
Bombay
Presently known as
Railway Recruitment Board,
Divisional Office Compound,
Bombay Central, Bombay.
3. Railway Service Commission,
Ahmedabad
presently known as
Railway Recruitment Board,
Railwaypura P.O.,
Ahmedabad - 380 002.

..... Respondents.

(Advocate: Mr.N.S.Shevde)

ORAL ORDER

O.A.No. 541/1989

Date: 27-4-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. B.B.Gogia, learned advocate for the
applicant and Mr. N.S.Shevde, learned advocate for the
respondents.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, is filed by the
applicant against the inaction on the part of the
respondents in not appointing her to Class III post

with preference to the post of office clerk and other preferences given by her. It is alleged by the applicant that the respondents have given unequal treatment in the matter of public employment, thereby violating the Articles 14 & 16 of the Constitution of India and that the respondents have not followed the order of the Railway Board vide Annexure A-4 and have not followed the advise given by the Tribunal in T.A.No.1305/86 and Contempt Application No.66/88.

4. The respondents have filed detailed reply resisting the application filed by the applicant. They have denied that only those candidates who secured and cleared the Viva-Voce were called for psycholo gical test. It is contended that the select list was prepared on the basis of marks scored by each individual in the written test and the oral interview. It is contended by the respondents that calling a candidate for psychological test does not ^{mean} ~~mean~~ that she has qualified in the select list. It is contended that the result of the selection was to be declared for all catagories on the same date after taking oral interview of all the candidates ^{and} ~~and~~ call at different places.

5. The main contention raised by the respondents in their reply is that the applicant has not secured adequate marks in written test as well as oral ^{and} ~~and~~ interview and was not selected by the respondents. It is also contended that the applicant had not cleared

It is also stated that no General candidate with less than 150 marks have been recommended for appointment from this instant selection.

The marks obtained by this applicant is 123 out of 300, hence she has not been considered for selection being below cut off marks, as she belongs to General Community."

The complete data and the material fixing the cut off marks ^{is shown} in this letter. It is also mentioned in it that the last candidate on the panel who has obtained total marks of 150 ^{has been} appointed in Railway service. It is also categorically stated in it that no general candidate with less than 150 marks has been recommended for appointment in this instant selection.

It is also mentioned in this document that the marks obtained by this applicant ^{were} 123 out of 300 and hence she has not been considered for selection being below cut off marks, as she belongs to general community. It is not in dispute before us that the applicant belongs to general community. ^{and} Having seen this data, we are completely satisfied that the applicant belongs to the general community having obtained only 123 out of 300 marks ^{she} was not appointed because no general candidate with less than 150 marks was recommended for appointment from this selection and the last candidate on the panel appointed in Railway service had secured 150 marks. Therefore, we find no substance in this application and the applicant cannot get the reliefs as prayed for.

for which she had passed the test/interview and was eligible to be appointed with effect from the date on which the next person who secured less marks than the applicant with all consequential benefits. ^uOn the same lines this Tribunal has granted the relief in O.A.196/86 produced at Annexure A-7.

3. The case of the applicant as pleaded in the application is that she was successful in the written examination and viva-voce examination held on 21st June, 1981 and 17th April, 1982, since she was called for the psychological test on 15th May, 1982 vide Roll No. 9065. It is alleged by the applicant that only those who cleared the test of written examination and viva-voce test ^u~~they~~ are called for psychological test. It is alleged by the applicant that ^{the fact that}~~when~~ she was called for psychological test goes to prove that she qualified in the written test and viva-voce examination. The applicant has produced the Railway Board's letter dated 10th November, 1976 at Annexure A-4. It is alleged by the applicant that according to the Railway Board policy, candidates failing in the psychological test meant for the post of ASM can be accommodated in other jobs according to their position and the applicant had opted for the post of office clerk which is a popular category and covered by the said notification No.2/80-81. ^uIt is the case of the applicant that since she had cleared the written test and viva-voce test, she is entitled to be appointed for any job other than ASM.

viva voce examination but has^{me} appeared in the follow-
~~ing~~ interview. It is further contended by the respondents in the reply that the applicant had scored less than 150 marks in the selection and as such was rightly not placed in the select list and was not appointed to the railway service.

6. We have heard the learned advocates and we have perused the documents Annexure A-1 to A-7 produced by the applicant^{me}. The Tribunal had, on 23rd March, 1993, after hearing the learned advocates directed the respondents to produce the data about cut off marks 150 because the grievance of the learned advocate for the applicant was that the respondents had appointed a person who secured less marks than the applicant. In pursuance of our direction, the respondents have produced today the letter dated April 20, 1993 addressed to the learned advocate for the respondents showing the data about the cut off marks about 150 etc. it is as under:

"(1) Material fixing for cut off marks:-

me
The cut off marks are generally fixed for each selection according to the number of vacancies actually to be filled and number of candidates qualified for selection. For this impugned selection the total vacancies were to be filled for 4236 inclusive of GL, SC, ST & ES. Accordingly, the cut off marks were calculated as 150, 142, 105 for GL, SC and ST candidates.

(2) Total marks secured by the last candidate on the panel and appointed in Railway service is 150 marks.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. OA/541/88 of 199

Transfer Application No. _____ Old Writ Pet. No. _____

C E R T I F I C A T E

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated : 25/5/93

Countersigned :

CRS/26-593
Section Officer/Court Officer

CRS/26-593
Sign. of the Dealing Assistant.

INDEX SHEET

NAMES OF THE PARTIES Sh. M. C. Raval.

VERSUS
C.O.I. & aks.

[illegible]

840-146/88
28/11/88

(1)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO. 541 /89

Miss Marudula G Raval,
Rajkot

:: APPLICANT

Versus

Union of India and others

:: RESPONDENTS

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Rajkot/Ahmedabad

Date: 28-11-88

+Raval Marudula G.
(APPLICANT)

For use in Tribunal's Office

Date of filing

or

Dt. of receipt by post

Registration No.

Signature
for Registrar

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 541 /89

Mrudula G Raval
Hindu, Adult, Aged about 30 years
Occupation: Unemployed
Address: 29/A Shreyas Society,
Srijinagar 1,
Behind Race Course & Rly.Track,
RAJKOT :: APPLICANT

Versus

- 1) Union of India
Owning & Representing
Western Railway,
Through:
General Manager,
Western Railway,
Churchgate,
BOMBAY - 400 020
- 2) Railway Service Commission
Bombay
Presently known as
Railway Recruitment Board,
Divisional Office Compound,
BOMBAY CENTRAL,
BOMBAY
- 3) Railway Service Commission,
Ahmedabad
Presently known as
Railway Recruitment Board,
Railwaypura P.O.,
AHMEDA BAD - 380 002 :: RESPONDENTS

1. Particulars of the order against which the application is made.

- | | | |
|----------------------|---|------------------------------|
| i) Order No. | : | The present application is |
| ii) Date | : | made against the in-action |
| iii) Passed by | : | on the part of respondents |
| iv) Subject in brief | : | in advising the applicant |
| | : | the marks secured by her in |
| | : | the examination as directed |
| | : | by the honourable CAT in |
| | : | TA No.1305/86 and Contempt |
| | : | Application No.66/88 in TA |
| | : | No.1305/86 and also against |
| | : | the inaction on the part of |
| | : | respondents in releasing the |
| | : | appointment orders in favour |
| | : | of the applicant. |

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which she wants redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case

i) The applicants beg to state that ~~the~~ she had filed a Regular Civil Suit bearing No. 475/1984 in the Court of Civil Judge, Rajkot along with other Applicants against withholding of her results and her appointment for the post they had appeared before the Railway Service Commission (now known as Railway Recruitment Board) in response to Employment Notice No. 2/80-81 with Category No. 21 named as Popular Categories - for the posts of Clerks etc. The applicant had also filed Application for interim relief in the matter. The ~~Respondents~~ Regular Civil Suit No. 475/1984 was transferred to this honourable Tribunal and numbered as TA No. 1305/86. The respondents filed pursis that results of applicants 1 to 5 cannot be declared as malafides are shown in these cases and Applicants 6 and 7 (Applicant No. 7, the present herself) secured low marks and will not be included in the merit list. This honourable tribunal delivered judgement in TA No. 1305 of 1986 on 15.6.1988 directing the respondents to advise the marks secured by the

applicant. Relevant portion of the judgement is as reproduced below:-

"We however, declare that the petitioners to be entitled to information regarding the marks secured by them in the case of Swati Ramanlal Shah and Miss Mrudula Gaurishanker Raval and the facts and circumstances of the malafides in the case of Meena Bhogilal Koya, Hatim Nuruddin Chikani, Jayesh Kumar J Mehta, Praful Haridas Adhia and Mehul M Thakker."

A/1

Copy of judgement in TA No.1305/86 is annexed herewith as Annexure A/1. Since the respondents took no action to comply with the above directives, the applicant along with others had to file Contempt Application No.66/88 in TA No.1305/86 in which the Tribunal directed the Respondents to comply with the directives within a period of six months. Copy of the judgement delivered in the Contempt Application No.66/88 by the honourable Tribunal on 6.12.1988 is annexed herewith as Annexure A/2.

A/2

ii) The applicant submits that she was successful in the Written Examination and Viva-voce Examination held on 21st June 1981 and 17th April 1982, since she was called for the Psychological Test on 15.5.1982 vide Roll No.9065. The applicant begs to submit that only those candidates secured sufficient marks and cleared the written test are called for the viva voce and only those secured and cleared the viva voce are called for the ~~Phys~~ Psychological Test, which is required only for the post of Asst. Station Masters. The Applicant submit that at the time of Written Examination her Roll No. was 215692 and at the time of Viva-Voce her Roll No. was 9065. ~~and at the time of Psychological Test her Roll No. was~~ Only those cleared these two tests are called for Psychological Test. Since the Psychological tests are meant for only Asst. Station Masters and being a lady, it would be difficult to work round clock she

immediately on receipt of the call letter directing her for appearing for the Psychological Test on 19.5.'82, applied to the Asst.Secretary, Railway Service Commission, Bombay vide her application dated 15.5.1982 to consider her for posts other than Asst.Station Master notified vide notification ~~XXXX~~ 2/80-81. A copy of the application is annexed herewith as Annexure A/3. However, since the applicant had not received ~~in~~ any reply from the respondents, she appeared for the Psychological Test on 19.5.1982 and again requested to consider for any posts other than Station Master being a lady. The interviewing officials immediately realised their mistakes that a lady could not have been called for the post of Asst.Station Master since ladies were not eligible for the post of Asst.Station Master at the relevant time and they very cleverly took back even the Call letter from the Applicant with a promise that she would be considered for posts other than Asst.Station Master.

iii) The applicant submits when she was just called for the Psychological Test, (though she was not entitled to be called for the psychological test being a lady ineligible to be considered for the post of Asst.Station master and this psychological test is only meant for Asst.Station Masters,) goes to prove that she qualified in the written and viva-voce examinations.

iv) The applicant also annexes herewith Railway Board's letter No.E(NG)III 76/16 dated 10.11.1976 addressed to the Chairmen, RSCs and copy to GMs All Indian Railways as Annexure A/4. This letter inter -alia instructs that the candidates who fail in the Psychological Test can be accommodated in other jobs in accordance with

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their position. Since the applicant was called for Psychological Test, though not required being a lady, ^{she} it can be safely inferred ~~that~~ they had qualified written and viva-voce tests and is entitled for the employment in any other category.

iv) The applicant submits that according to the above referred Railway Board's Policy (A/4) the recruitment to all popular categories including Office Clerks, TCs, ASMs etc. is through one selection. The candidates are also required to indicate their preference for the categories advertised. According to the said policy candidates failing in the Psychological Test meant for the post of ASMs can be accommodated in other jobs according to their position. The applicant had opted for the post of Office Clerk, which is a popular category and covered by the said notification No.2/30-31. Since she had cleared the written test and viva-voce she is entitled to be appointed for any job other than ASM with preference to the post of Office Clerk and other preferences given by her. The applicant submits that if candidate failing the psychological test meant for ASM can be accommodated in other jobs because the selection is considered to be one for all popular categories, the case of the applicant also being on the same line has to be considered for appointment other than ASMs post on the "one selection basis" in accordance with Railway Board's rule framed of general nature. Not doing so is nothing but a discriminatory and arbitrary treatment to the applicant. In the case of the applicant, there is no ground of mal-practice against her.

.....6

Under ~~common~~ common sense and as per the rules and practices of the respondents only those candidates qualified in the written and oral are called for the psychological test. The applicant annexes call letter bearing Sr.No.215692 issued in her favour when she was called for the written test as Annexure A/5.

A/5

A/6

Also annexed herewith as Annexure A/6 is the call letter bearing Roll No.9065 in support of her claim that she cleared the written test and on passing the same she was called for the viva-voce test. However, the applicant is not in possession of the call letter issued in her favour calling for the psychological test, since it was taken away by the interviewing officials at the time of psychological test, as narrated in para 4.

(ii) above. In view of her passing in the written and viva-voce tests there is no escape, except to hold that she had qualified to be posted against any popular category other than the ASM. Therefore, there was no question of any less marks as alleged by the respondents.

The respondents in spite of repeated directives by the honourable Tribunal as narrated above, did not advise and disclose the marks secured by her. From this, an adverse inference may kindly be drawn against the respondents that they have something to hide, otherwise there was no reason for the respondents to disregard the directives of the honourable tribunal to advise the marks and position secured by the applicant. The applicant therefore may be treated as having qualified and secured necessary marks and position for appointment to any post other than ASM

v) It is submitted that at the relevant time and in respect of the employment notice against which the applicant had applied, the persons who secured marks

upto 140 out of 300 were given appointment orders. In support of this, the attention of the honourable Tribunal is drawn to the oral judgement passed by the honourable Tribunal Ahmedabad in OA No.196/ 86 between Shri Viram I Bhatt, Versus Union of India, delivered on 17.9.1986, wherein in the same selection the said Shri Viram Bhatt, who secured 142 marks was found eligible for appointment. Copy of the judgement is annexed herewith as Annexure A/7, for the convenience and ready reference of the honourable Tribunal. By the said order, accordingly the applicant was directed to be appointed in class III post with effect from the date on which the next junior man who secured marks less than the applicant was given such appointment. The respondents are also hereby called upon to produce the records of the marks obtained by the candidates of the said selection and recommended for appointment, out of the select list.

5. Grounds for relief with legal provisions

- i) In-equal treatment meted out to the Applicant in the matter of public employment, thereby violating the articles of 14 & 16 of the Constitution of India.
- ii) Non-following the orders of the Railway Board issued in terms of Annexure A/4
- iii) Disregard to the directives given by the honourable Tribunal in advising the marks secured by the applicant in TA No.1305/86 and Contempt Application No.66/88 - judgements delivered on 15.6.1988 and 6.12.1988 respectively.

6. Details of remedies exhausted

The applicant declares that she has no remedies available for the redressal of her grievances except to approach this honourable Tribunal.

7. Matters not previously filed or pending with any other court.

The applicant further declares that she had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought

- A) The respondents may please be directed that the applicant be appointed to class III post for which she had passed the test/interview and eligible to be appointed with effect from the date on which the next person who secured less marks than the applicant with all consequential benefits on the same lines this honourable Tribunal has granted the relief in O.A.No.196/86 produced at Annexure A/7
- B) Any other better relief or reliefs as this honourable Tribunal may deem just and proper may also kindly be granted to the Applicant.

9. Interim order if any prayed for

NIL

10. In the event of application being sent by the Registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, they shall attach a self-addressed Post Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

"NOT APPLICABLE"

11. Particulars of Postal order filed in respect of the Application Fee.

- 1) No. of Indian Postal Order(s) : DD 784181
5
- 2) Name of the issuing post office: Popat para - Rajkot
- 3) Dt. of issue of Postal Order : 7-11-89
- 4) Post office at which payable : A'bad

12. List of enclosures

- 1) Postal order as detailed in para 11.
- 2) Vakalatnama
- 3) Copy of documents from Annexure A/1 to A/7

VERIFICATION

I, Kum. Mrudula G Raval, daughter of S hri Gaurishanker S. Raval aged about 30 years working as: AT PRESENT UNEMPLOYED resident of Rajkot do hereby verify that the contents from para 1 to 3 and from 6 to 12 are true to my personal knowledge and para 4 to 5 believed to be true on legal advice and that I have not suppressed any material facts.

Rajkot/Ahmedabad

Date: 28/11/89

+ Raval Mrudula G.
(APPLICANT)

Through: Shri B.B. Gogia,
Advocate,
RAJKOT

Filed by Mr... B.B. Gogia
Learned Advocate for Petitioners
with second set & copies
copies copy served/not served to
other side

Dt. 28/11/89 Dy. Registrar C.A.T (I)
A'bad Bench

Annex A/1

A/2

①
②
③

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

~~XXXXXX~~

~~XXXX~~

T.A. No. 1305 of 1986

DATE OF DECISION 15-6-1988

Shri M.M. Thakar & Ors.

Petitioner

Shri B.B. Gogla

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

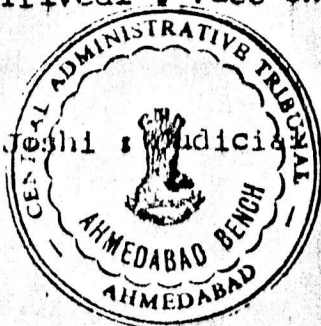
Shri B.R. Kyada

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi : Vice Chairman

Hon'ble Mr. P.M. Joshi : Judicial Member.



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11/12

J_U_D_G_M_E_N_T

TA/1305/86

15-6-1988

Per: Hon'ble Mr. P.H. Trivedi ; Vice Chairman.

This case RCS/475/84 has been transferred from the Civil Judge Senior Division, Rajkot and renumbered as TA/1305/86 under Section 29 of the Administrative Tribunals Act, 1985.

2. The main contention of the petitioner/plaintiffs is that in response to the employment advertisement with employment Notice No.2/80-81 with category No.25 generally described as Popular category, the petitioners applied with requisite fees and went through the written test and interview and psychological test being within the prescribed age limit of 25 years. 150 candidates were appointed as office clerks but in the case of the petitioners the results were not declared. The Civil Judge (S.D.) Rajkot while deciding plaintiffs' application Ex.6 on 13-9-1984 ordered as follows.

"It is hereby directed that the defendants No.2 and 3 should ascertain the result of the test of 1981 held under Employment Notice No.2/80-81 so far as the plaintiffs of this suit are concerned and if there is nothing found against the said plaintiffs in C.B.I., or givilance inquiry, the defendants are directed to declare the result of all the seven plaintiffs of this suit within 40 days from today and should communicate it to the plaintiffs under the aforesaid time and if the plaintiffs are found eligible for appointment, the defendants should consider the said plaintiffs for their appointments within one month from the declaration of the result of the plaintiffs in priority to other incumbents who might have been appointed on account of the



delay in declaration of the said result and subject to these conditions as stated above, the ad-interim injunction which was granted on 20-4-84, is modified and vacated so that subject to the above condition and further subject to the result of the L.P.A. No.223/84, the defendants will be at liberty to declare the result of the candidates who appeared for selection of Employment Notice No.1/82 of 1982-83 till the disposal of the suit. No order as to costs."

However, without notifying the results the defendants issued another employment Notice No.1/82 for the Popular Category and are now proposing to declare the results with the result that no post will be left as vacant. The petitioners would have crossed 25 years of age which is the maximum age limit of employment and thereafter would lose their chance to get employment in Government or Railway service. The respondents have sent a communication dated 11-12-84 stating as follows.

"On behalf of the Defendant No.2 & 3, it is submitted as under:-

2. That as per the order dtd. 13-9-84 of this Hon'ble Court passed below the Plaintiffs' application for Ad-Interim Injunction, the result of the Test of 1981 held under Employment Notice No.2/80-81 of the Plaintiffs is already been notified by Defendant No.2 and is as under:-

3. The result position of the 7 plaintiffs has been checked in consultation with the vigilance branch of the Railway Board. And as the mala tide are shown in the cases of the following 5 Plaintiffs, the result of the following 5 Plaintiffs cannot be declared.

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13

Name of the candidate	Plaintiff No.	Interview Roll No.
1. Meena Bhogilal Koya	5	8662
2. Hatim Nuruddin Chikhani	6	9054
3. Jayeshkumar J. Mehta	3	9059
4. Praful Haridas Adhia	4	9056
5. Mehul M. Thakker	1	9075

4. Regarding the result of Plaintiff No.2 Swati Ramanlal Shah (Interview Roll No.9066) and Plaintiff No.7 Mrudula G. Rawal (Interview Roll No.9065), it is submitted that the aforesaid 2 candidates have secured very low marks and so the names of the aforesaid 2 plaintiffs i.e. plaintiff No.2 and Plaintiff No.7 will not be included in the merit list, which will be prepared according to the vacancies advertised or modified vacancies which is likely to be lower than the advertised vacancies.

5. In view of the facts stated herein above, all the 7 plaintiffs do not stand the chance to be recommended for appointment to the Railways. Since all the Plaintiffs are not being recommended, advice of their position of result is not being communicated to the plaintiffs as they are not at all eligible for appointment to the Railways."

The respondents have produced a letter dated 11-12-84 from the Chairman of the Railway Service Commission and the results published in Indian Express dated 17-12-86. In this letter it is merely stated that in the case of applicants Meena Bhogilal Koya, Hatim Nuruddin Chikhani, Jayeshkumar J. Mehta, Praful Haridas Adhia and Mehul M. Thakker, results cannot be declared as mala fide are shown in these cases and in the case of Swati Ramanlal Shah and Miss Mrudula Gaurishankar Rawal "Secured low marks so their names will not be included in the merit list".

3. In this case, therefore, some of the preliminary contentions raised can be disposed of as having been rendered obsolete. The petitioners had contended that they have passed the psychological test, the last stage of the selection process and the respondents have disputed this by stating that lady candidates were not eligible for the post of Station Masters for which psychological tests were required and therefore in their case their passing the psychological test cannot be claimed. The other contention was that the results of the examination in response to employment Notice No.2/80-81 be declared at the time when the suit was filed. The respondents had taken the stand that the result cannot be declared because of the pendency of C.B.I. and vigilance inquiry. This stage now has been crossed and the respondents have stated that in the case of Meena Bhogilal Koya, Hatim Buruddin Chikhani, Jayeshkumar J. Mehta, Praful Haridas and Mehul M. Thakker mala fide are shown and in the case of other two candidates Swati Ramanlal Shah and Miss Mrudula Gaurishanker Raval, low marks are found to be the reason for not declaring the result for non-inclusion in the merit list. The question of the petitioners claiming any right on the vacancies on preferential basis to those who are selected in response to the subsequent employment Notice No.1/82 cannot arise until the petitioners' contention that they have a right to appointment is established.

4. At the outset we must find that the contention of the respondent that the petitioners cannot claim any entitlement to appointment until they are declared successful and included in the list of selected candidates is entirely valid. Passing written test or interview or psychological test by themselves do not entitle the candidate to an appointment. Apart from subsequent police verification, C.B.I. and Vigilance enquiries, the respondents rightly

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reserve to themselves the right of selecting the candidate for appointment. Until an appointment letter, therefore, is given, the candidate cannot claim any right to the appointment.

5. However, if the candidates pay fees and apply in response to any advertisement, the respondents are bound by the terms of advertisement to inform the candidate whether he has been selected or not within a reasonable period of the application. In this case the employment notice has been issued by the Railway Service Commission and the procedure prescribed for selection subjects the candidates to several requirements among which are passing the required tests. If the candidates are, therefore, not selected, they have a right to be informed of the results. It is not possible for the respondents to take the stand that only when they are successful for being selected or included in the merit list, they can be informed of the result and in the case of the rest of them by the fact of their non-inclusion in the merit list, they have to be left to infer that they have not made the grade. This plea does not hold water by the very circumstances of this case. A candidate may not feature in the merit list not only in case he has not made the grade but because certain enquiries in his case have not been completed. It is, therefore, incumbent upon the respondent authorities to inform the candidate the result of the examination.

In this case low marks have been urged for non-inclusion in the case of two candidates namely Swati Ramanlal Shah and Miss Mrudula Gaurishankar Raval. In their cases also the marks obtained by them have not been indicated. During the hearing it was ascertained whether there is any obligation to declare the marks. We were informed that there was no such obligation. It is difficult to see how a candidate can file any

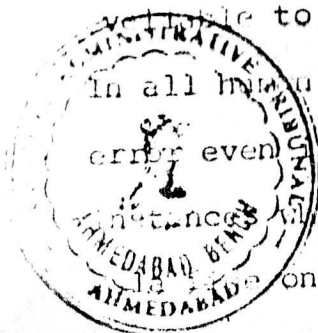
.....6/-



representation regarding any error which he might allege to have been committed if he is not informed about the marks secured. We may not hold that the marks secured by the candidate be declared to the world but if a candidate is not included in the merit list on the ground that he has secured low marks, he has a right to be informed of the marks that he has secured and of the level at which the inclusion into the merit list has been decided as to judge the extent of his deficiency and to give him an opportunity to file a representation. After all he has paid fees for the examination. We recognise that there is a valid distinction between the results of an academic examination and the examination held for selection on the ground of merit or suitability but, nevertheless, the entitlement of a candidate to know the extent of the merit of his performance and the deficiency in coming up to the standards required, should be recognised. This is specially so in the case of examinations as in the Railway Public Service Commission which attract such a large cross section of the educated youth.

7. In the case of other five petitioners the ground taken is mala fide. We see no reason why the respondent authorities should not spell out the facts and circumstances regarding mala fide to the petitioners. In the event of their doing so, opportunity can be available to the petitioners to present their case to the authorities. Apparently the respondent authorities may have gone by the reports of the vigilance agencies for concluding mala fide. It is necessary that such a conclusion should not be allowed to prevail by unilateral enquiry and that opportunity should be

available to the petitioners to satisfy the respondent authorities. In all human agencies, devices and machineries scope for error even of bona fide, has to be allowed for and in some instances which we would like to believe are rare even on the part of such human agencies cannot be



entirely discounted. For this reason whenever, as in this case, mala fide has been urged as a reason for not declaring the result, facts and circumstances of such mala fide, should be made known to the petitioners in order to enable them to give an opportunity to correct any error or rebut in unfair inclusion or presumption.

8. Subject to the above observations we find that the petitioners cannot be given the relief that they claim. The respondents have a right to make their decisions regarding selections and appointment matters. Passing of tests themselves cannot create a right to selection or appointment. We, however, declare the petitioners to be entitled to information regarding the marks secured by them in the case of Swati Hemlal Shah and Miss Mrudula Gaurishankar Rayal and the facts and circumstances of the mala fide in the case of Keena Bhogilal Koya, Hatim Nuruddin Chikhani, Jayesh Kumar J. Mehta, Praful Haridas Adhia and Mehul M. Thakker.

9. Subject to the above observations and directions the petition is allowed in parts. There shall be no order as to costs.

Sd/-

(P.H. TRIVEDI)
VICE CHAIRMAN



Sd/-

(P.M. JOSHI)
JUDICIAL MEMBER

True Copy

P.M. Joshi

Advocate

15/6/88

TRUE COPY

P.M. Christian
16/06/88
Section Officer
Central Administrative Tribunal,
Ahmedabad Bench

Ann ex A/2
~~ANN EXER A-3~~

2
16
48

Central Administrative Tribunal,
Ahmedabad Bench
Contempt Application No. 66/88
in
T.A./1305/86

Meena B. Koya & 4 others ... Petitioners.
Shri B.B. Gogia ... Adv. for the
petitioners.

VERSUS

Union of India,
owing & representing,
W.Rly. Through - General Manager,
W.Rly. Churchgate, Bombay

The Railway Service Commission,
Now the Rly. Recruitment Board,
Through its Chairman

Divisional Railway Manager,
Bombay Central Office Compound,
W.Rly, Bombay.

The Railway Service Commission,
Now Rly. Recruitment Board,
Rly. Station Yard,
Near Hindi Training Centre, A'bad ... Respondents

Shri B.R. Kyada ... Adv. for the
respondents.

CORAM : Hon'ble Mr. P. H. Trivedi ... Vice-chairman.
Hon'ble Mr. P. A. Joshi ... Judicial Member.

6/12/1988

Heard Mr. B.B. Gogia and Mr. B.R. Kyada learned
Advocates for the applicant and the respondent. The
directions in para 8 of our judgement dated 15-6-1988 in
TP/1305/86 reproduced below be complied with within 6
months of the date of the representations dated 28-7-1988
and in accordance with the Govt. Policy that directions in
judgement be complied with within 6 months.

"We, however, declare the petitioner to be
entitled to information regarding the marks
secured by them in the case of Swati Ramanlal
Shah & Miss Mrudula Gaurishanker Raval and the
facts and circumstances of the Malafied in the
case of Meena Bhogilal Koya, Hatim Muruddin Chikhandi,
Jayesh Kumar J. Menta, Praful Haridas Achia and
Mehul M. Thakkar".

With this Order, the petition is disposed of.

Sd/-
(P.H. Trivedi)
Vice-chairman

Sd/-
(P.A. Joshi)
Judicial Member.

Prepared by : H.P. Chokshi
12/12/88

Compared by: P.T.T.
12/12/88

True Copy
P. Vasam
Advocate

Annex A/3

BY REGISTERED A.DUE

INDEX POSTAL CERTIFICATE

From: Kumari Raval Mrudula Gorishanker
C/o Shri G.S. Raval, Roll No. 9065 -
SHRIJI NAGAR,
Side by 'RAJHANS'
Behind Race-course,
RAJKOT - 360 001.

Dated:- 15.5.1982.

To The Assistant Secretary,
Railway Service Commission,
1st floor,
CHURCHGATE, BOMBAY -20

Sir,

Sub:- Call letter dated 10.5.1982 -
Roll no. 9065 - received on 15.5.82

I thank you very much for selecting me for the post of Assistant Station Master but as myself being a lady, it is not possible for me to perform duties as Station Master.

I applied for the post of Office Clerk in Rajkot Division and as such it is requested that the call letter may kindly be reviewed and issued for the post of Office Clerk in my favour.

Thanking you,

Yours faithfully,

Raval Mrudula G.

(RAVAL MRUDULA G.).

True Copy

B. N. Ram

Advocate

Annex A/A

Annex A-B

4
20
18

Copy of Board's letter No.E(NG)III 76/16 dated 10.11.76 addressed to the Chairman, RSC and copy to GAs, All Indian Railways.

Subj:- Recruitment to non-technical popular class III categories - Holding of Mass Examination.

In terms of Board's letter No.E(NG) 63-RRI/35 dated 9.7.64 separate examinations are to be held for recruitment of ASMs/Signallers and for recruitment to other popular categories like Guards, Commercial Clerks, Train Clerks etc. The Ministry of Railways have decided that the recruitment to all popular categories should hereafter be through one selection. Since the candidates will be asked to indicate their preference for the categories advertised, candidates failing in the psychological test of ASM can now be accommodated in other jobs in accordance with their position.

True Copy

Advocate

True Copy

Advocate

True Copy

Advocate

Annet A/5

19/5/81

रेल सेवा आयोग
RAILWAY SERVICE COMMISSION

फोन : 298016/511
Telephone : 298016/511

तार/Gram : रेलसेवा/RAILSEVA

चर्चगेट स्टेशन भवन,
कम्पार्ट-400 020,
Churchgate Station Bldg.,
Bombay-400 020.
दिनांक/Dated : 20-5-1981

अतकनीकी सामान्य कोटिओं के लिए प्रतियोगिता परीक्षा
COMPETITIVE EXAMINATION FOR THE NON-TECHNICAL POPULAR CATEGORIES

बुलावा पत्र
CALL LETTER

श्री/श्रीमती/कुमारी/Shri/Smt./Kumari MARUPALA G.

इस आयोग के नौकरी सूचना संख्या 2/80-81 कोटि संख्या 25 के उत्तर में, आपके आवेदन पत्र के संदर्भ में, निर्देश दिया जाता है कि आप नीचे बताई गई तारीख, समय व स्थान पर मैट्रिकुलेशन स्तर के अंग्रेजी, निबंध, संक्षेप लेखन, सामान्य ज्ञान और अंकगणित विषयों में लिखित परीक्षा देने के लिए उपस्थित हों।

With reference to your application in response to this Commission's Employment Notice No. 2/80-81 Category No. 25, you are directed to present yourself for a written examination in English, Essay, Precis, General Knowledge and Arithmetic, all of Matriculation Standard, on the date and at the time and Centre shown below :—

तारीख/Date : रविवार/Sunday, the 21st जून/June 1981

समय/Time : 9.30 बजे/Hours

आपका रोल नं./Your Roll No. 215692

केन्द्र
CENTRE

फोटोग्राफ निकास्ता न जाए
Photograph not to be detached.

! फोटोग्राफ प्रस्तुत नहीं किया गया,
अतः उम्मीदवादी अनंतिम है, नीचे
विशेष अनुदेश 11 देखें।

Photograph not submitted,
Hence candidature is
provisional. See special
instruction 11.

P.D. Malavia Commerce College,
Malavia Road, RAJKOT.

केवल आयोग की मोहर लगी रहने पर बंध
Valid only if affixed with
Commission's seal

कृपया पीछे दिये अनुदेशों को ध्यानपूर्वक पढ़ें और उनका पूर्ण रूपसे पालन करें।
Please read carefully the instructions given overleaf, which must be strictly adhered to.

True Copy

B. N. Sam

Advocate

21.6

बी. एल. शर्मा

सहायक सचिव
Assistant Secretary

23
90

उत्तर देने के बारे में निर्देश

इस परीक्षा के अनुभाग I में उत्तर शब्दों या वाक्यों में नहीं लिखने हैं। प्रत्येक प्रश्न के लिए एक से अधिक पर्याप्त सूचित किये गये हैं और वे प्रत्येक प्रश्न के सामने बताये गये हैं। लेकिन केवल एक ही उत्तर सही है। आपको दिये हुए पर्याप्तों से एक ही उत्तर चुनना है। प्रत्येक प्रश्न पढ़ने के पश्चात् आपको सही उत्तर निर्धार करना है। ए. बी. सी. डी. के योग्य भाग में क्रॉस (X) कर दीजिए। धितना हो सके जल्दी कीजिए लेकिन गलतियाँ टालिए। जहाँ सुझाए गए उत्तरों की संख्या है, आप सही उत्तर बताते पर अंक कम कर दिए जाते हैं। अतः यह आपके हित में नहीं है कि आप बिना सोचे-समझे ही उत्तर अंकित कर दें। शुरुआत, आप, सुझाए गये उत्तरों में से अपनी पसंद किसी दो तक की सीमित रखते हैं तथा उम्मीद है कि आप के सही होने के लिए आप कुछ निश्चय हैं तब आप उसे अंकित करने के अवसर का लाभ उठा सकते हैं।

DIRECTIONS FOR GIVING ANSWERS

In Part I of this examination, answers *ARE NOT* to be written in words or sentences. There are more than one alternatives suggested for each question. These are shown against each question. But there is only one correct answer. You have to select the correct answer from amongst the given alternatives. After going through each question, decide which is your right answer. Put a cross (X) mark inside the appropriate circle captioned A, B, C, D. Work as fast as you can but avoid mistakes. Where suggested answers are provided a penalty may be imposed for wrong answers. It is, therefore, not in your interest to mark answers at random or without thought. However, if you can limit your choice to two of the given answers, and you have a strong notion about the right answer from the two, you may think of taking a chance.

सामान्य अनुदेश

इन अनुदेशों में किसी एक का भी पालन न करने पर आपकी उम्मीदवारी अवधीकार की जा सकती है।

1. परीक्षा की तारीख अथवा परीक्षा केन्द्र में, परिवर्तन के लिए अनुरोध स्वीकार नहीं किया जाएगा।
2. प्रवेश पाने के लिए उम्मीदवार को चाहिए कि इस बुलावा-पत्र को परीक्षा भवन में अपने साथ लाए और मांगे जाने पर उसे दिखाएं।
3. परीक्षा 10-00 बजे आरम्भ होगी। परीक्षा आरम्भ होने के आधे घंटे के बाद उम्मीदवार को परीक्षा भवन में प्रवेश की अनुमति नहीं दी जाएगी। किसी भी उम्मीदवार को परीक्षा आरम्भ होने के पश्चात् जब तक आधा घंटे का समय बीत न गया हो तब तक और निरीक्षक की पूर्ण अनुमति के बिना परीक्षा भवन छोड़ने की अनुमति नहीं दी जाएगी।
4. उम्मीदवार को अपनी फाउल्टेन पेन, पेंसिल और परीक्षा के उपयोग में अनिवार्य अन्य आवश्यक सामग्री अपने साथ लानी होगी। उत्तर पुस्तिकाएं जांचने के लिए दी जाएंगी।
5. (i) उम्मीदवार को अपना रोल नम्बर उत्तर पुस्तक में निश्चित स्थान पर स्पष्ट रूप से लिखना चाहिए।
(ii) उम्मीदवार उत्तर-पुस्तिका में कहीं अपना नाम न लिखें।
6. सभी प्रश्नों के उत्तर केवल स्याही में ही लिखे जाने चाहिये।
7. उम्मीदवार को चाहिए कि वह परीक्षा भवन छोड़ने से पहले निरीक्षक को ही उत्तर पुस्तिका सौंप दे। उसे किसी भी स्थिति में उत्तर पुस्तिका में बदलाव नहीं करनी चाहिए।
8. परीक्षा भवन में पूर्ण शांति रखी जानी चाहिये। उत्तर पुस्तिकाएं सौंपने के पश्चात् उम्मीदवारों को चाहिए कि वे परीक्षार से शान्ति पूर्वक जाएं और किसी भी प्रकार की अशान्ति उत्पन्न न करें।
9. उम्मीदवार अपने यात्रा खर्च स्वयं चुकाएंगे।
10. अनुसूचित जाति और अनुसूचित जन-जाति के उम्मीदवारों और दिनांक 1-1-1964 को अथवा उसके पश्चात् पूर्व पाकिस्तान से स्वातन्त्र्य, विस्थापित व्यक्तियों के लिए :—

आपके लिए परीक्षा के स्थान तक और वापसी यात्रा के लिए निःशुल्क रेलवे पास संलग्न है। यात्रा आरम्भ करने से पहले पास में समुचित स्थान पर लिखित निष्कार हस्ताक्षर कर दिए जाना चाहिए। यदि आप आकर लिखित परीक्षा में शामिल नहीं होना चाहते, उस स्थिति में पास इस कार्यालय को लौटा दें। यदि आप पास वापस नहीं करते तो आपका नाम काली सूची में दर्ज कर दिया जाएगा। कृपया यह ध्यान में रखें कि पास अपरदेय है। यदि आपको एक से अधिक पास मिले हों तो बाकी के सभी पास परीक्षा केन्द्र के अधिकारी को वापस कर दें।

True Copy

(Advocate)

General Instructions

Failure to observe any of these instructions will render your candidature liable to rejection.

1. Request for change of date or centre will not be entertained at any cost.
2. The candidate must bring this Call Letter to the Examination Hall to secure admission and produce the same on demand.
3. The examination will commence at 10:00 hours. Candidates will not be admitted to the Examination Hall after half an hour of the commencement of the examination. No candidate shall be allowed to leave the Examination Hall until half an hour has elapsed after the commencement of the examination and without prior permission of the Invigilator.
4. The candidate must bring his/her own fountain pen, pencil and other requisites for use at the examination. Answer Books will be supplied by the Commission.
5. (i) The candidate must write his/her Roll Number legibly in the space provided for in the Answer Book.
(ii) The candidate should not write his/her name anywhere in the Answer Book.
6. Answers must be written in ink.
7. The candidate must personally hand over the Answer Book to the Invigilator before leaving the Examination Hall. He/She should, on no account, leave the Answer Book on his/her table.
8. Strict silence must be observed in the Examination Hall. After handing over the Answer Books candidates should leave the premises peacefully and not cause any disturbance.
9. Candidates are expected to defray their own travelling expenses.
10. For Scheduled Caste and Scheduled Tribe candidates and displaced persons from East Pakistan migrated on and after 1-1-1964 :—

Free railway pass for your journey to the place of examination and back is enclosed. The date and signature at the appropriate places in the pass should be filled before commencement of the journey. In case you do not intend to come and appear for the written test, you should return the pass to this office. If you do not return the pass, your name will be black-listed. Please note that the pass is non transferable. If you have received more than one Pass, then extra passes should be returned to the Invigilator at the Examination Centre.

रेल सेवा आयोग, बम्बई

तार : रेल सेवा
फोन : 298016/511

पहली मंजिल,
चर्चगेट स्टेशन भवन,
चर्चगेट, बम्बई 400 020
दिनांक 1 APR 1982

कॉल लेटर

अतकनीकी सामान्य कोटियों के लिए उम्मीदवारों की भर्ती

नियोजन सूचना संख्या 2/80-81 की कोटि संख्या 25

श्री/श्रीमती/कुमारी राकेश सुकुमा जी/शर्मा उपरलिखित
नियोजन सूचना के लिए भेजे गए आपके आवेदन पत्र तथा इसके लिए ली गई लिखित परीक्षा में देखी गई योग्यता के आधार पर आपको
दिनांक 7 APR 1982 08.00 बजे, स्थान Rly. Institute, Rajkot पर साक्षात्कार परीक्षा के लिए
उपस्थित रहने का निर्देश दिया जाता है। यदि आपने परिवीक्षाधीन सहायक स्टेशन मास्टर के लिए भी विकल्प दिया है, तब साक्षात्कार
परीक्षा समाप्त होते ही आपको उसी दिन अथवा इसके अगले दिन 'सायकोलॉजिकल टेस्ट' के लिए प्रविष्ट होना होगा।

2. साक्षात्कार परीक्षा के लिए आपका रोल नं. 9065
3. इस "कॉल लेटर" पर कार्यालय की मोहर लगी होने पर ही इसे वैध माना जाएगा।
4. दृग्गोचर पीछे दिए गए निर्देशों को अच्छी तरह पढ़ें तथा इनका कड़ाई से पालन किया जाए



RAILWAY SERVICE COMMISSION, BOMBAY

Grams : RAILSEVA
Phone : 298016/511

1st floor,
Churchgate Station Bldg.,
Churchgate,
Bombay-400 020
Date 198

CALL LETTER

RECRUITMENT OF CANDIDATES FOR THE NON-TECHNICAL POPULAR CATEGORIES
Category No. 25 of Employment Notice No. 2/80-81

Shri/Smt./Kum
With reference to your application in response to the Commission's above Employment Notice and
on the basis of your performance in the Written Test held against the same, you are directed to
present yourself for INTERVIEW at 08-00 hours on at the
If you have opted for the Category of Prob. Asstt. Station Master, you may have to appear for the
psychological test on the same day or next day.

2. Your Roll No. for Interview is
3. This Call Letter is valid only if the SEAL of this office is affixed on it.
4. Please read carefully the Instructions given overleaf which must be strictly adhered to.

(B. L. SHARMA)
Assistant Secretary

True Copy

Advocate

निर्देश

1. उम्मीदवार कॉल लेटर अपने साथ अवश्य लाएं तथा मांगने पर प्रस्तुत करें।
 2. परीक्षा की तिथि और स्थान बदलने के लिए किए गए अनुरोध पर कोई विचार नहीं किया जाएगा।
 3. यदि आवश्यक हो, उम्मीदवारों को एक दिन से अधिक समय तक ठहरना पड़ सकता है।
 4. उम्मीदवार को अपने साथ शैक्षणिक योग्यता, अनुभव तथा खेल-कूद में योग्यता संबंधी मूल प्रमाण पत्र तथा अंक सूची लाया आवश्यक है। उम्मीदवार को अपने साथ जन्मतिथि बताने वाले हायर सैकंडरी/मैट्रिक्यूलेशन/एस.एस.एल.सी. के मूल प्रमाण पत्र लाना आवश्यक है।
 5. (क) यात्रा खर्च उम्मीदवार स्वयं चुकाएंगे।
(ख) केवल अनुसूचित जाति/अनुसूचित जनजाति के उम्मीदवारों के लिए इकतरफा यात्रा के मुफ्त पास संलग्न है। यदि उम्मीदवार साक्षात्कार के लिए नहीं आना चाहता उस स्थिति में पास इस कार्यालय को वापस लौटा दिया जाए क्योंकि यह पास अपरिदेय है। वापसी यात्रा के लिए पास उम्मीदवार को साक्षात्कार के पश्चात दिया जाएगा बशर्ते कि उम्मीदवार भेजे गए पास की "काउंटरफाईल" जिस पर टिकट बाबू के हस्ताक्षर हों प्रस्तुत करें।
 6. आवेदन पत्र के साथ-पहले भेजे गए जाति प्रमाण पत्र उसमें उल्लिखित किसी भी अधिकारी द्वारा हस्ताक्षरित जाति प्रमाण पत्र उम्मीदवार, साक्षात्कार के समय प्रस्तुत करें।
 7. अपना पता लिखा हुआ $10\frac{1}{2} \times 4\frac{1}{2}$ आकार का लिफाफा अपने साथ लाएं।
 8. उपर्युक्त निर्देशों का पालन न करने पर उम्मीदवार के साथ कार्रवाई की जाएगी जैसाकि आयोग इस संबंध में उचित समझगा।
- नोट :- किसी प्रकार की सिफारिश किए जाने पर उम्मीदवार अयोग्य घोषित कर दिया जाएगा।

विशेष टिप्पणी

नियोजन सूचना में मध्य और पश्चिम रेलवे के विभिन्न मण्डलों के लिए विज्ञापित रिक्तियां अनुमानित है अतः परिवर्तनीय है। आपके मूल आवेदन पत्र में कोटि, मण्डल तथा रेलवे के लिए प्राथमिकता के लिए दिए गए विकल्प की कोई गारन्टी नहीं दी जा सकती।

INSTRUCTIONS

1. The candidate must bring this Call Letter and produce the same on demand.
2. Request for change of Date or Centre will not ordinarily be entertained.
3. The candidate may have to stay for more than one day if necessary.
4. The candidate is required to bring all his/her ORIGINAL CERTIFICATES, Mark Sheets of academic qualifications, experience and activities in games and sports. He/She must bring his/her original Matriculation/Higher Secondary/SSLC Certificate in support of Date of Birth.
5. (a) The candidate is expected to defray his/her own travelling expenses.
(b) For Scheduled Caste/Scheduled Tribe candidates only :
A Single Journey Pass is enclosed for the candidate's journey. In case the candidate has no intention of attending the Interview, the pass should be returned to this office as the same is not transferrable. A Return Journey Pass will be issued only after the Interview is over and provided the candidate returns the counterfoil of his/her pass duly signed by a Ticket Collector.
6. Caste Certificate already submitted to the Commission alongwith the application should be produced at the time of Interview, duly signed by any one of the authorities mentioned therein.
7. Bring alongwith you a self-addressed envelope of size $10\frac{1}{2} \times 4\frac{1}{2}$.
8. Failure to observe any of these Instructions will render a candidate liable to such action as the Commission may deem fit to take.

Note.—ANY FORM OF CANVASSING WILL DISQUALIFY A CANDIDATE.

Special Note

The vacancies as advertised in Employment Notice on different divisions of Central & Western Railway are approximate and liable to change. The first choice of the candidate i.e. Category, division and Railway as per original application can not be guaranteed.

Annet A/7

Central Administrative Tribunal
Ahmedabad Bench

O.A. 177/86

COMAM: Hon'ble Mr. P. H. TRIVEDI
Hon'ble Mr. P. M. JOSHI

.. Vice Chairman
.. Judicial Member

17.9.186

The learned advocates Mr. S. V. Raju for the applicant and Mr. K.K. Shah for the respondents appear. This case has been transferred as regular civil suit no. 746 of 82, of the Court of Civil Judge, Rajkot, and taken on the register of this Tribunal, as TA/213/86. The applicant's case is that although he had appeared for an interview and obtained marks higher than the score of some of the others who have been offered appointment, he was not conferred an appointment due to some error or mistake. In order to ascertain the position with reference to the relevant documents, the respondent was asked to produce them and, after inspection of such documents, the following order is made:

Mr. S.S.Kabre, Jr. Clerk appears on behalf of the Railway Recruitment Board. The learned advocate for the respondents makes a statement that Mr. Tejwani, Secretary of Railway Recruitment Board appeared on 15.7.'86, alongwith the documents as had been desired by the Tribunal, and the respondent is ready to-day with the documents for satisfying the Tribunal and as is said in the earlier orders. Accordingly we have seen the relevant documents which are specified viz. Book no. 8, pages 236, 237 and 238, Head Clerk's statement dated 27.11.'81 and the file RSE/IYE 79/WR. The applicant was interviewed on 18.5.'75, although he was earlier called for interview on 25.5.'79, and that he acquired 142^{3 marks} and was, therefore eligible for being offered appointment but, due to some mistake this was not taken into account. This position has been conceded by the learned advocate for the respondent, Mr. K. K. Shah. [It is, therefore, directed that the plaintiff be appointed to Class III post with effect from the date on which the next person who secured marks less than him has been given such an appointment subject to the applicant's clearing such medical and other tests as may be required before he joins. All other benefits will follow accordingly. The application is laid down to rest. Cost of Rs. 300/- and cost of the stamp, and the charges for witnesses as assessed and fixed by the Registry on the basis of records should be borne by the respondent.]

True Copy
[Signature]
Advocate

TRUE COPY

Sd/-
(P.H. TRIVEDI)
VICE CHAIRMAN

Section Officer
Central Administrative Tribunal,
Ahmedabad Bench.

C. A. T.

Ahmedabad Bench

- (a) Serial Number of the 'Application'. 3043.
(b) Name of the Applicant. Mr. B. G. Gajjar.
(c) Date of presentation of application for copy 14.3.84.
(d) Number of Pages. 1 (one).
(e) Amount of deposit. Rs. 51.
(f) Amount of paying fee. (Rs. five only)
(g) Date of presentation of copy. Receipt No. 2970
dated 14.03.84.
(h) Date of presentation of copy. 15.3.84.
(i) Date of Delivery of copy to the applicant. 20.03.84.

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO.541 OF 1989.

Miss Mrudula G.Raval... .. Applicant
V/s

Union of India Ors... .. Respondents.

WRITTEN STATEMENT.

The Respondents humbly beg to file written statement to the application as under:-

1. Contents of para 1 of the application need no reply.
2. Contents of para 2 of the application are not true and are not admitted. It is not admitted that this Hon'ble Tribunal has jurisdiction to entertain and try the present application as the office of the contesting respondent viz. Respondent No.1 is at Bombay.
3. Contents of para 3 of the application need no reply.
4. Regarding para 4(i), it is submitted that Shri M.M.Thakar and others viz. Mehul M.Thakar, Swati Ramanlal Shah, Jayeshkumar J.Mehta and Praful Haridas Adhia, Mina Bhogilal Koya, Hatim Nuruddin Chikhani, and Mrudula G.Raval (applicant

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other side

1-11
Adv. f. Rest.
30.8.91

herein) filed Civil Suit No. 475 of 1984 in the Court of Civil Judge (S.D.), Rajkot, challenging the action of the Respondents withholding the results of the said plaintiffs and for appointment to the post for which they had appeared before the Railway Service Commission in response to Employment Notice No. 2/80-81 with category No. 21 known as popular categories. It is not disputed that the said civil suit No. 475/84 was transferred to this Hon'ble Tribunal after coming into force of the Administrative Tribunals Act, 1985 and registered as T.A. NO. 1305/86.

The Respondents rely on the said proceedings as and when necessary. It is not disputed that this Hon'ble Tribunal decided the said T.A. No. 1305 of 1986 by its judgement dated 15.6.1988 (Annexure A/1 with the application). The Respondents rely on the said ~~judgement~~ judgement for the directions issued by the Hon'ble Tribunal. It is submitted that no time-limit was fixed by the Hon'ble Tribunal for compliance of the directions issued by the Hon'ble Tribunal. It is submitted that Mina B. Koya and four others filed contempt application No. 66 of 1988 in T.A. NO. 1305/86 before the expiry of six months period from the date of judgement in T.A. NO. 1305/86 dated 15.6.88 and the Hon'ble Tribunal passed order dated 6.12.88 directing that directions in para 8 of the judgement dated 15.6.88 in T.A. NO. 1305/86

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be complied with within six months from the date of representation dated 28.7.88 and in accordance with the Government policy (Annexure A/2 with the application).

5. Contents of para 4(ii) are not fully true and are not admitted. It is submitted that all the candidates, who secured ~~150~~ the qualifying marks in the written test were called for the viva-voce but it is denied that only those candidates who secured and cleared the viva-voce were called for the psychological test on 15.5.82, which was required only for the post of Assistant Station Master. It is submitted that the psychological test is given to the candidates, who have ~~obtained~~ opted for the post of Assistant Station Master. It is submitted that the select list is prepared on the basis of marks scored by each individual in the written test and the oral interview. It is submitted that calling a candidate for psychological test does not mean that he has qualified in the select list. It is submitted that the psychological test is given to the candidates securing more than minimum required marks in order to judge their fitness only for the post of Assistant Station Master. It is denied that the fact of calling the applicant for psychological test shows that the applicant was eligible for employment in the categories other than Assistant

Station Master as alleged. It is not disputed that the applicant's Roll No. in written test was 215692 and for interview was 9065. It was clearly stated in the call letter for oral interview that if the applicant has opted for the category of probationary Assistant Station Master, the applicant may have to appear for psychological test on the same day ~~x~~ or next day. If the applicant had not opted for the category of Assistant Station Master she was not required to appear in the psychological test. The inference of the applicant that she had cleared both the test viz. written test as well as oral interview was without any basis. The applicant had secured the minimum required marks in the written test and was eligible to be called for the oral interview. When the candidates were called for psychological test the result of the oral interview was not declared but the said psychological test was conducted immediately to facilitate the finalisation of ~~xx~~ selection. The applicant was considered for the category of other than Assistant Station Master viz. the office clerk/commercial clerk. The result of selection was to be declared for all categories on the same day after taking oral interview of all the candidates called at different places. It is not admitted that the call letter of the applicant was taken back by the interveiwing

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officials when she appeared for psychological test before them.

6. Contents of para 4(iii) are not true and are not admitted. As stated herein above only the candidates, who had ~~obtained~~ opted for the post of Assistant Station Master, had to appear for psychological test on the same day or on the next day as mentioned in the call letter. The fact that the call letter issued to the applicant also contained a call regarding appearing for the psychological test and that the said portion was not deleted from the call letter of the applicant did not prove or mean that the applicant had qualified in the viva voce examination also. The said call was applicable only to the candidates who had opted for the post of ASM and not to the candidates who had not opted for the said post of ASM. The inference drawn by the applicant that she had qualified in both the examinations is without any substance. The result of the selection was to be declared later on.

7. Contents of para 4 (iv) are not & fully true and are not admitted. The Respondents rely on true and proper interpretation of the Railway Board's letter NO.E(NG) III 76/16, dated 10.11.76 addressed to the Chairman, Railway Service Commissions and copy to the General Managers, All Indian Railways (Annexure A/4 with the application).

It is submitted that in terms of Railway Board's letter No.E(NG)~~RRI~~x 63 RRI/35, dated 9.7.64 separate examinations were to be held for recruitment of ASMs/Signallers and for recruitment to the other popular categories like guards, commercial clerks, train clerks, etc. The letter dated 10.11.76 communicates the decision of the Ministry of Railways that the recruitment to all popular categories should hereafter be through one selection. The said Circular further provides that since the candidates will be asked to indicate their preference for the categories advertised, candidates failing in the psychological test
/of ASM can now be accommodated in other jobs in accordance with their position. The inference drawn by the applicant from the fact that she was called for psychological test, though not required, that she had qualified in both the written and viva voce test and was entitled for the employment in any other category is without any substance. It is submitted that the applicant did not secured adequate marks to qualify in the select list, which is based on the performance in written test and oral interview and was not selected by the Respondents.

8. Contents of para 4(iv) (retyped sub-para(iv)) are not fully true and are not admitted. It is not disputed that in terms of Railway Board's letter dated 10.11.76 recruitment to all the popular

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categories including Office/Commercial Clerks is to be made through one selection. It is not disputed that the candidates are also required to indicate their preference for the categories advertised. It is not disputed that according to the said policy candidates failing in the psychological test of ASM can now be accommodated in other jobs in accordance with their position. As stated herein above the applicant had not cleared the viva voce but had merely appeared in the oral interview. The applicant was required to be considered for appointment in order to preference given by her on her placement in the select list after finalisation of the selection. It is denied that the respondents had not taken action as per Railway Board's aforesaid Circular qua the applicant and the said action is discriminatory and arbitrary as alleged. It is denied that under commonsense and as per the rules and practice of the Respondents, only those candidates qualified in the written and oral are called for the psychological test. As stated herein above, the applicant was called for the oral interview on the basis of her performance in the written test. It is submitted that the select list is prepared on the basis of marks scored by each individual in written test and oral interview. The applicant has not secured adequate marks in written test as well as oral interview to qualify in the select list and as such she was not selected. The applicant was,

therefore, not eligible for appointment to Railway Service. The respondents have correctly stated that the applicant had secured low marks in the selection. It is denied that despite the repeated directives by the Hon'ble Tribunal the respondents did not ^{by} advise and disclose the marks secured ~~/the~~ applicant and adverse inference is required to be drawn against the Respondents to the effect that they have something to hide. It is submitted that the applicant has been informed of her result in January, 1989. The applicant has not stated the said fact in the application and has suppressed it from the Hon'ble Tribunal. Since the applicant has not qualified in the selection, she cannot be treated as having qualified and secured necessary marks and position for appointment to any post other than ASM as alleged. No such treatment can be given to the applicant in view of the fact that the applicant has failed to secure necessary marks for her placement in the select list. The said averments of the applicant are irrelevant and without any substance or support. The question of drawing any adverse inference against the respondents does not arise. The Respondents have not disregarded the directives issued by the Hon'ble Tribunal to advise ^{to the applicant} ~~/the~~ information regarding the marks secured ^{by} ~~/to~~ the applicant.

9. Contents of para 4(v) are not true and

are not admitted. It is denied that at relevant time and in respect of the employment notice against which the applicant had applied, the persons, who secured marks upto 140 out of 300 were given appointment orders. It is submitted that the judgement of the Hon'ble Tribunal in the case of Viram I. Bhatt V/s Union of India in T.A.No.196/86 dated 17.9.86 is not applicable to the facts of the present case. It is submitted that the said case had arisen out of employment notice issued much before the employment notice against which the applicant had applied. It is submitted that the judgement of the Hon'ble Tribunal dated 17.9.86 in O.A.NO.196/86 relates to different selections of non-technical popular category. It is submitted that different cut-off marks are prescribed for different selections. So far as the present selection viz. category No.25 of employment notification No.2/1980-81 is concerned, the general candidates securing 150 marks and above have been selected. It is submitted that cut-off marks for the selection referred to in the application O.A.NO.196/86 were different viz. 140/300 and the applicant in the said case having secured 142 marks i.e. more than cut-off marks was eligible to be appointed against a post advertised in the said employment notification, and

AS

as such ~~w~~ the applicant in that case was directed to be appointed to Class III post with effect from the date on which the next person who secured marks less than him has been given such an appointment subject to the applicant's clearing such medical and other tests as may be required before he joins. The respondents rely on the said judgement (Annexure A/7 with the application) as and when necessary. The request of the applicant calling upon the respondents to produce the records of the marks obtained by the candidates of the said selection and recommended for appointment, out of the select list cannot be granted as both the selections are different and distinct. The records of the selection referred to in the case O.A.NO.196/86 are not relevant for the purpose of present application and are not required to be produced by the Respondents. As stated herein above, the applicant had secured less than 150 marks in the selection and as such was rightly not placed in the select list and was not appointed to the Railway Service.

10. Contents of para 5 of the application are not true and are not admitted. None of the grounds raised by the applicant exists.

(i) Contents of ground (i) are not true and are denied. It is denied that unequal treatment has been meted out to the applicant in the matter of

public employment and thereby Articles 14 & 16 of the Constitution of India are violated. It is submitted that no unequal treatment is meted out to the applicant. The action of the respondents is in accordance with the rules, legal, proper and constitutional.

(ii) Contents of ground (ii) are not true and are denied. It is denied that the orders of the Railway Board issued in terms of Annexure A/4 are not followed. It is submitted that the orders of the Railway Board are followed by the Respondents.

(iii) Contents of ground (iii) are not true and are denied. It is denied that the respondents have disregarded the directives of the Hon'ble Tribunal in advising the marks to the applicant as per judgement in T.A.NO.1305/86 and Contempt Application No.66/88. As stated herein above, the Respondents have informed the applicant in January, 1989 about the marks secured by her in the aforesaid test. The Respondents have no intention to disregard the directives given by the Hon'ble Tribunal in the aforesaid two judgements.

11. Contents of paras 6 & 7 need no reply. The applicant has been advised the marks scored by her, which are below the marks prescribed for qualifying in the merit list and therefore the applicant has no ground to approach the Hon'ble

Tribunal.

12. The applicant is not entitled to any of the reliefs claimed in para 8 of the application.

The judgement of the Hon'ble Tribunal in O.A.NO.196/86 is not applicable to the facts of the present case and cannot be followed in the present case.

13. Contents of paras 9 to 12 need no reply.

In view of what is stated above the application may be dismissed with costs.


VERIFICATION.

I, **B.B. Modgil**, Chairman, Railway Recruitment Board, Bombay, do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Bombay

Dated: 28.8.1990

File 30.891


Chairman, Railway Recruitment Board, Bombay

रेलवे भर्ती बोर्ड, बम्बई.

Chairman

Railway Recruitment Board, Bombay

✓ Reply/Response/objection submissions
filed by N. S. Shevde
learned advocate for petitioner/
Respondent with record no. 1+1=2
Copy sent to learned & other side

Di. 30/8/91 Dy. Registrar G. A. T. (1)
A'bad Bench