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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 83/91
T.A. NO.

DATE OF DECISION 16th February, 1995.

Anilkumar Shukla **Petitioner**

Mr. D.K. Mehta **Advocate for the Petitioner (s)**

Versus

Union of India and Others **Respondent**

Mr. B.R. Kyada **Advocate for the Respondent (s)**

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The Hon'ble Mr. V. Radhakrishnan **Member (A)**

The Hon'ble Mr. Dr. R.K. Saxena **Member (J)**

JUDGMENT

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

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Anilkumar Om Prakash Shukla
Quarter No. 291/B
Loco Colony, Mehsana

Applicant.

Advocate Mr. D.K. Mehta

Versus

1. Union of India
Notice to be served through
General Manager,
Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager (Estt)
Western Railway,
Rajkot Division
Kothi Compound, Rajkot.

Respondents.

Advocate Mr. B.R. Kyada

JUDGMENT

In

Date: 16.2.1995.

O.A. 83 of 1991

Per Hon'ble Shri V. Radhakrishnan

Member (A)

Heard Mr. D.K. Mehta and Mr. B.R. Kyada, learned counsels for the applicant and the respondents respectively.

2. The grievance of the applicant is that he was not allowed to appear for interview held on 12-3-1991 for the post of Diesel Khalasi even though according to him he was eligible and qualified. His contention is that similarly situated persons like him had been called for interview and he has been denied the chance. Thereby violating Articles 14 and 16 of the

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Constitution of India as well as the principles of natural justice. The applicant contends that after his father who was a Railway employee passed away his elder brother was given compassionate appointment in the Railway and he is the dependent on his brother. The respondents no.2 had invited applications for recruitment to the post of Diesel Khalasi in Diesel Shed, Sabarmati in the scale of Rs. 750-940/- (R.P.) on 11-10-1990 Annexure A-1. The applicant had passed S.S.C. examination and also final examination held by the Gujarat Technical Board, Gujarat State for the course of Wireman. He has also completed the course of Training in I.T.I in the trade of Mechanic Tractor. at that time he was aged 27 years. The applicant applied for the post of Diesel Khalasi in pursuance of the circular dated 11-10-1990 to the respondents. When he came to know that some similarly situated candidates who had applied for the post, had received interview call, he sent a notice through his advocate requesting for reasons for not being called for interview. He had not received any reply. As the final interview for the post was to be held on 12-3-1991, the applicant filed this O.A. asking for the following reliefs:

"That this Hon'ble Tribunal may be pleased

- (a) to allow this application with costs;
- (b). to issue mandatory direction to the respondent No.2 - the Divisional Railway Manager (Estt.), Western Railway, Rajkot Division, Rajkot to call the applicant for interview in pursuance to the application made by him for the post of Diesel Khalasi



- (c) to declare the action/decision of the 2nd respondent of not calling the applicant for interview for the post of Diesel Khalasi in pursuance to the application made by him as illegal and in violation of the Constitutional guarantees.
- (d) to issue necessary further direction to consider the applicant eligible for the interview for the post of Diesel Khalasi within the reasonable time (before the final appointments are to be made) as may be deemed fit and proper.
- (e) to grant such other and further reliefs and to pass such other and further orders as may be deemed fit just and proper in the circumstances of the case.

He had also asked for the following interim relief:

- (a) to stay the interviews held for the post of Diesel Khalasi in pursuance to the circular /letter dated 11-10-1990 (Ann. A-1 pending the admission, hearing and final disposal of this application.
- (b) to direct the respondent no.2 the Divisional Rly. Manager (Estt.) W.Rly Rajkot Div., Rajkot to consider the applicant to be eligible for interview for the post of Diesel Khalasi and accordingly may be directed to call the applicants for interview.
- (c) in the alternative to direct the respondent No.2 Divl. Rly, Manager (Estt.) Western Railway, Rajkot Division., Rajkot to call the applicant for interview for the post of Diesel Khalasi and the result of the interview may be withheld pending the admission, hearing and final disposal of this application;

and

to direct the respondent No.2 to keep one post of Diesel Khalasi in general category vacant pending the admission hearing and final disposal of this application.

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(d) such other and further relief may be granted as this Hon'ble Tribunal may think fit and proper.

3. When the matter came up for admission on 8-3-1991 the Tribunal decided that there was no case for interim relief in terms contained in para 9 of the application as stated above. However, the only relief called for at that juncture was to make out come of the selection subject to the out-come of the application.

4. The respondents have filed reply. In the first instance they have taken the plea that the applicant is not a Central Government Servant and there is no element in the nature of employer and employee relationship and as such the applicant has no locus standi. Further the applicant had not fulfilled the eligibility criteria as per notification dated 11-10-1990 Annexure R-1. They have stated that the applicant should have sent this application through the employment exchange. The applicant had also not given any proof of being ward of a Railway employee. The applicant had sent his application directly and claimed that he was dependent on his brother who was a Railway employee but in the application the signature of his brother was not obtained, as such his application was not considered.

5. The applicant had filed rejoinder. He stated that he has right to approach the Tribunal as he was not being called



for interview. He claims that being ward of a Railway employee he was not required to send this application through Employment Exchange. Accordingly, he had sent his application directly after filing the particulars. He stated that his brother had signed the relevant column in the application. Being ward of his brother a Railway employee he should have been called for interview and hence his application should be allowed.

6. During the arguments Shri D.K. Mehta learned counsel for the applicant stated that the applicant was a dependent on his brother working in the Railways and as per para 4 of the circular of the respondents letter dated 11-10-1990, he had sent his application directly and should have been considered by the respondents. According to him, the applicant had submitted application duly signed by his brother in the relevant column provided regarding dependency. Mr. B.R. Kyada, learned counsel for the respondents, pointed out that the applicant had submitted his application without completing the declaration as provided for in para 3 of the proforma of the circular dated 11-10-1990, Annexure R-1. He produced the Xerox Copy of the application received from the applicant. It was seen that the declaration of the Railway employee requiring applicant being dependent on him was not signed by any person. In the absence of proper attestation and declaration regarding dependency of the applicant on his brother, stated to be a Railway employee, and his



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application being incomplete could not be considered by the Respondents and hence it was rejected. In the circumstances of the case, we find that the applicant has not been able to establish the action of the Railways as arbitrary and against the principles of natural justice. The applicant has to blame himself for not submitting his application duly completed in all respects. Accordingly, we see no merit in this application. It is dismissed. No order as to costs.

R. K. Saxena

(Dr. R. K. Saxena)
Member (J)

V. Radhakrishnan

(V. Radhakrishnan)
Member (A)

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