

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A./244/92

: Date of Decision: 21/9/99

Shri R.B.Joshi : Petitioner (s)

Mr . P.H.Pathak : Advocate for the petitioner(s)

Versus

Union of India & Ors. : Respondent(s)

Mr.R.M.Vin : Advocate for the respondent(s)

CORAM

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

The Hon'ble Mr.A.S.Sanghavi : 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?

N^o

Shri R.B.Joshi,
T.I.
Porbandar Railway Station,
Porbandar.

: Applicant

Advocate: Mr.P.H.Pathak

Versus

1. Union of India

Notice to be served through:
General Manager,
Western Railway,
Churchgate, Bombay.

2. Divisional Railway Manager,

Western Railway, Or.
Divisional Office Supdt.
Western Railway,
Bhavnagarpara, Bhavnagar.

: Respondents

Advocate: Mr.R.M.Vin

JUDGMENT
OA/244/92

Date: 21/9/99

Per: Hon'ble Mr.V.Radhakrishnan

: Member(A)

Heard Mr.P.H.Pathak and Mr.R.M.Vin, learned advocates for the applicant and the respondents respectively.

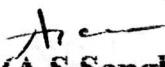
3. The respondents held a selection for the post of Transportation Inspector vide Notification dated 30.7.91 (Annexure A/2). The applicant is one of the candidates who had applied for the post. The applicant is already working on ad hoc basis in the post. All the candidates including the applicant appeared in the written test. The allegation of the applicant is

that selection which was held as per Notification dt. 30.7.91 was cancelled due to flimsy reasons. The respondents have issued a letter dated 12.11.91 (Annexure A-4) for fresh selection . The applicant made a representation stating that he was working as Transportation Inspector since 30.4.90 and he is also eligible to call for the selection test which was done vide Annexure A-2 and as such it should not be cancelled and fresh application should not be invited. No reply was received from the respondents. Hence, he approached this Tribunal praying for the following reliefs:-

- (A) The Hon'ble Tribunal be pleased to declare the impugned action on the part of the respondent No.2 canceling the selection proceeding vide his letter dt.10.10.91 at Annexure A/3 as illegal, invalid and inoperative in law and be pleased to quash and set aside the same and direct the respondents to consider six persons of the list who were called at the initial stage of consideration for the post of Transportation Inspector.
- (B) Be pleased to declare that there is no justification available to the Respondents for cancellation of the whole proceeding to the post of Transportation Inspector on the same ground that number of Candidates who are called are more than thrice to the number of posts and direct the respondents to continue the said list and proceed in accordance with law with the earlier list of selection.
- (C) Be pleased to declare that the applicant is having a right of consideration for the post of Transportation Inspector and the respondents should not fill up the post of Transportation Inspector without giving an opportunity to the applicant to appear in the selection proceeding.
- (D) Be pleased to direct the respondents to allow the applicant to Appear in the selection proceeding for the post of Transportation Inspector and decide the case of the applicant in accordance with law.
- (E) Any other relief to which the Hon'ble Tribunal deems fit and Proper in interest of justice."

3. The respondents have contested the application. They have stated that Notification for selection for the post of Transportation Inspector was issued on 8.5.91. As per Head Quarter directives three times number of employees were required to be called for filling up of two vacancies but in the selection all 13 eligible candidates were called and the Notification was cancelled vide letter 10.10.91 (Annexure R-VIII). They have stated that this selection was cancelled as this was against the rules and procedure. The applicant being at Sr.No.7 of the eligible candidates was not eligible to be called for selection. As such the respondents have stated that the applicant's allegation are unfounded. Hence, they have prayed for rejection of the application.

4. We have heard both the learned advocates and gone through the documents on record. We find that the applicant has no right to be called for selection especially when he has not come within the zone of selection as pointed out by the respondents. It has been held by the Hon'ble Supreme Court in Shankarsan Dash vs. Union of India (1991) 3 SCC 47 that even if candidates are successful in the selection test, they do not acquire any indefeasible right to be appointed against existing vacancy. Hence, in the present case the applicant has no right to demand that he should be considered for selection in terms of letter issued at Annexure A-2 dated 30.7.91. The respondents have given valid reasons that as per rules, only three times candidates in number of vacancies should be the criterion for calling the person for selection test. Hence, the cancellation of the selection by the respondents cannot be termed as arbitrary or without any reason. Accordingly, we do not find any merit in the application which is dismissed but, without any order as to costs.


(A.S. Sanghavi)
Member(J)


(V.Radhakrishnan)
Member(A)