

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Or. dt. 7.2.03

Copy of order  
handed over to  
counsel for both  
sides.

13/2/03

13/2/03

Order dt. 07.02.2003

Mr. Ashok Mohanty, learned Senior Counsel for the Railways by submitting a Memo dt. 7.2.2003 prays that as the Respondents have already filed a detailed objection in reply to the interim prayer disclosing all the facts of the case, the same record may be treated as counter to this Original Application. The prayer is granted.

This Original Application has been filed by a group of 10 officials of S.E. Railways and the All India Scheduled Castes and Scheduled Tribes Railways Employees' Association S.E. Railways, Khurda Road Division, through its President, is also shown as one of the Applicant. However, Shri G.C. Bindhani, President of the said Association, has denied by writing to the Divisional Railway Manager, South Eastern Railway, Khurda Road (Annexure-R/3) that his Association had never given consent to become a party to this case and submitted that his name accordingly be deleted from the Cause title.

By submitting this Original Application the Applicants have assailed, on various grounds, the recruitment test undertaken by the Respondents for filling up of 45 Grade 'C' Artisan posts in S.E. Railways, Khurda Road Division under Annexure-5. The objections raised by the Applicants are that although number of back log vacancies of S.C./S.T. were above 500 posts, the authorities took action for filling up of only 45 posts. Secondly, that the recruitment was conducted on 11.02.1996 in a very irregular/biased manner based on extraneous consideration. Thirdly, no pre-recruitment training was imparted to S.C./S.T. candidates. Fourthly, that the Applications were invited from two types of candidates, namely, (1) candidates nominated by 18 Employment Exchanges named therein within the jurisdiction of the Khurda Road Railway Division.

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

and (ii) candidates who were wards/dependents of S.C./S.T. Railway employees (within the geographical jurisdiction of Khurda Road Division) Fifthly, that the authorities had deviated from the Railway Estt. Manual in prescribing the minimum educational qualification. Sixthly, that leakage of question paper had taken place. Seventhly, that the candidates were permitted to use calculators during the examination. Eighthly, that although the test was held for recruitment to the posts of technical category, but the questions were hardly of technical nature. This was done to favour some candidates who did not have qualification for technical posts. Ninthly, that the quality of evaluation of answer scripts was not of good standard as some of the candidates who came out of successful were not even Matriculates. Lastly, that the procedure of declaring the result of written examination as prescribed in the Railway Estt. Manual was not followed.

The Respondents have submitted counter against all the objections raised by the Applicant. However, no rejoinder was ever filed by the Applicants nor were they present during the hearing. Their counsel was also not present at the time of hearing. However, Mr. Ashok Mohanty, learned Senior Counsel for the Railways was present and with his assistance, we have heard the matter and perused the records. Mr. Mohanty refuted each of the points one by one to show that the allegations made by the Applicants had no legs to stand upon. He also stressed that the applicants having appeared in the recruitment test and failed could not have come up with this Application as the law is well settled that it is not open to a person who has been disqualified in any examination/selection to challenge the process of the said examination/selection. He stated that on this ground alone this Original Application is not maintainable. That apart, he said, the Applicants having indulged in making various misleading statements about the facts of the case


NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

have not approached this Court with clean hands. For example, 504 posts were never available only for the technical side but that number constituted the total number of technical and non-technical posts in 08 Departments of S.E. Railways to be filled up both in promotion as well as in direct recruitment categories as per Annexure-02 to this Original Application. Similarly, he controverted all other points raised in this Original Application with facts and figures.

Having regard to these facts and circumstances of the case as stated above, we find no merit in this Original Application and accordingly reject the same. No costs.

  
( B. N. SOM )  
VICE CHAIRMAN

  
( M. R. MOHANTY )  
MEMBER (JUDICIAL)