

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A./T.A./R.A.No..... 303 . 199 6 .

K.C. Nayak & ors..... Applicant(s)

Versus

U.O.I. & ors..... Respondent(s)

Sr. No	Date	Orders	Office note as to action (if any) taken on order
	17.4 96.	REGISTER Registrar	9 P.O for Rs 50/- has been filed. 17/4/96.
1	18.4.96	Heard Shri D.P.Dhalasamant, learned counsel for the applicants. There are five applicants in this case. These five applicants are Group 'D' employees. Under Annexure-A/1, there was an open notification inviting applications for selection for promotion of Group D staff to Group C in the the Commercial Department as Ticket Collectors in the scale of Rs.950-1500/- against Departmental promotion quota. Annexure-A/1 contains the eligible categories of Commercial Department. The conditions are that the applicant should be regular Group 'D' employee and should have completed a minimum of 3 years of continuous service as on 11.10.1995 in commercial department only. They are supposed to appear in a written test comprising of English, Arithmetic and General Knowledge. It is stipulated that those who secure 50% marks or above in the written-test, will be eligible for appearing viva voce test. Under Annexure-A/2,	For Regn pl. 17/4/96. Sold 17.04.96 Registrar for Admin. with Interim orders pl. 17/4/96. Bench.

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..1	18.4.96	<p>there are 76 candidates. The applicants are 18, 23, 29, 30 and 31 in the list of eligible candidates. Along with others the applicants were invited to appear at a written-test by Annexure-A/2, dated 16.2.1996. The applicants appeared in the written-test. By Annexure-A/3, 25 candidates were selected and invited to appear for viva-voce test on 19.4.1996. The applicants' names do not figure in the list of selected candidates.</p> <p>The case of Shri D.P.Dhalasamant is based on the circular dated 19.12.1984. The heading of that circular is "Selection posts" - Written Examination as part of selection process - Determination of eligibility for interview. According to this circular, the Ministry of Railways have decided with effect from 5.12.1984 that 60 per cent of the total marks prescribed for written examination and for seniority should also be the basis for calling candidates for viva-voce test instead of 60 per cent of the marks for the written examination only.</p> <p>Shri Dhalasamant says that instead of 60 per cent in the circular of 1984, the notification of Annexure-A/1 indicated 50 per cent only. This, he says is deviation from the 1984 circular. He next states that he has an apprehension that in the absence of a regular seniority list proper marking of his seniority might not have been given. On the basis of this pleading, he seeks quashing of Annexure-A/3, a panel of 25 successful</p>	<p>Free copy of order dt. 18.4.96 may be sent given to the Petn. counsel and opposite side in Regd. Post.</p> <p><i>M 19/4</i></p> <p><i>S. O.</i></p> <p><i>Recd</i></p> <p><i>Pr 19/4/96</i></p> <p><i>2</i></p>

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candidates and also seeks a direction to the respondents to conduct the test following the rules and provisions prescribed by the Railway Board. The interim prayer sought for is that a direction should be given to the respondents not to hold the *viva-voce* test till the disposal of this case.

I am not satisfied that any foundation has been laid for such a radical prayer to quash Annexure-A/3. The law is settled that having applied and appeared in the written test and having become unsuccessful, the applicants cannot challenge the said written test on that count. If these applicants had succeeded in the written-test, Shri Dhalasamant would not have come forward with such a prayer. Secondly, the notification (Annexure-A/1) stipulating conditions of recruitment is a self-contained document. It would have been open to the applicants to challenge this document at the inception before writing the exam that it does not conform to the norms of the Railway Board. An employer has every right to prescribe such norms and conditions for calling for applications for filling up of the posts as it thinks fit at any time. There is nothing apparently wrong in Annexure-1. As Annexure-A/1 has not been challenged, the subsequent process of selection after the applications are called and processed and written test conducted can't be interfered with mid-way. Finally it is not known ~~for~~ for certain as to whether the guidelines of the Railway Board have been violated ~~or not~~ by the Selection Committee. The applicants' mere apprehension that certain guidelines might not have been followed is no basis

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..1	18.4.96	<p>for our interference. Unless there is some evidence and solid basis to substantiate, it is not proper to stay the <i>viva-voce</i> test on mere apprehension of the applicants. I do not think there is any merit in this petition. It cannot be admitted and accordingly dismissed at the stage of admission.</p> <p><i>K. Arasurthi</i> MEMBER (ADMINISTRATIVE)</p>