

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

17. 08. 08. 2001.

For Admision

12/21/801

Bench

Counsel for the applicant is absent. Copy of counter served before filing on 27.7.2000 on hon. No rejoinder has been filed. Further time can not be allowed to file rejoinder. Pleadings are taken to be complete. Adj. to 23.8.01 for hearing and final disposal at the stage of admission.

Vee <sup>SI M</sup>  
Chaturvedi

Member (Jad.)

## 18. ORDER DATED 23-8-2001.

Heard Mr. M. R. Mishra, learned counsel for the applicant and Ms. C. Kasturi, learned Additional Standing Counsel appearing for the Respondents and have also perused the pleadings.

In this Original application, the applicant has prayed for quashing the order dated 10. 9.1998 publishing a list of candidates who have qualified in the written test and have been called to the interview. His second prayer is for a declaration that he is deemed to have been qualified in the written test against Physically Handicapped quota and the Respondents should be directed to consider the case of the applicant by holding a fresh viva-voce test for him. Respondents have filed counter opposing the prayer of the applicant. No rejoinder has been filed.

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OA.574/99

for the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Admitted position is that the applicant is a Orthopaedically Handicapped person. In response to a notice of the Railway Authorities dated 3.3.1997 at Annexure-2 in which he applied for Gr.C post under the Physically Handicapped quota. In this notice it was mentioned that the total number of vacancies is 30 out of which 10 each are for Orth. Handicapped, ~~is~~, hearing impaired and visually handicapped. Applicant took the written test but in the list of persons ~~to be~~ published at Annexure-4 who have been declared qualified in the written test and have been called to the interview, his name does not appear. In the context of the above fact, the applicant has come up in this Original Application with the prayers referred to earlier.

Respondents have filed their counter opposing the prayers of applicant. It is not necessary to refer to all the averments made by the Respondents in their counter because these will be taken note of while considering the submission made by learned ASC for the Respondents. The ground on which the applicant has based his prayer in this OA are discussed below.

*S. J. J. M.*

The first ground urged by the applicant is that he has given full and correct answer in the written test and he should have been declared as qualified but this has not been done. This contention is unacceptable because it

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is not for the applicant to take a view as to how and he has done in the written test merely on his assumption that he has done well in the written test, the same can not be accepted. This contention, is therefore, rejected.

The second contention of the applicant is that for holding the selection no guidelines were laid down by the Railway Authorities and therefore, holding of selection test was wrong. We are unable to accept this contention; firstly because after having appeared in the selection test and failed it is not open for the applicant to contest the same on the ground that this has not been done in accordance with rules. Moreover, applicant has not specifically averred as to the manner <sup>in which</sup> he has been prejudiced in the evaluating his performance in the written test.

The third point urged by learned counsel for the applicant is that whereas against 10 vacancies for the Orth. Handicapped quota, 30 candidates have been declared qualified in the written test for visually impaired <sup>91</sup> candidates have been called to the viva voce test for <sup>10</sup> vacant post and for hearing impaired for 10 posts <sup>33</sup> candidates have been called to the viva voce test. Respondents have pointed out that under the instructions blind candidates are not subjected to the written test and they are straightaway called to the vivavoice and because of this for the 10 posts reserved for visually impaired 91 candidates including all blind candidates have been called to the interview.

As regards calling for interview of 33 candidates under the hearing impaired quota, Respondents have pointed out that the number has been increased from ~~30~~ 30 because of morethan one person getting the cut

*S. J. J. M.*

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off marks. These averments have not been denied by the applicant and we also find this explanation reasonable. In view of this, this contention of the applicant is rejected.

In view of the above we hold that the applicant is not entitled to the reliefs claimed by him in this O.A.

There is also one more ground for which the Original Application must fail. The applicant has prayed for quashing the order at Annexure-4 in which certain persons have been called to the viva-voce test. If this order at Annexure-4 is quashed, interest of those persons will be adversely affected but the applicant has not made them parties to this O.A. In consideration of the above, we hold that the application is without any merit and the same is rejected. No costs.

28/8/01  
R.H.  
S.O (T)  
  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

✓ SOMNATH SOM  
(SOMNATH SOM)  
VICE CHAIRMAN  
28/8/01

KNM/CM.