

o A. 596/99

NOTE OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Counter not  
served.

Registrar

108  
14/8

Order dt. 17-7-2000

Both the Counsel are  
present. LD Counsel  
for Rys. Prays time  
to file counter. Postponed  
to 7.8.2000 for the same.

17/7/2000  
REGISTRAR

Counter not  
served.

108  
14/8  
Registrar

dt. 7.8.2000

The respondent  
counsel prays  
for time to serve the  
copy of counter. Prayer  
allowed. Time granted  
till 14.8.2000 for the  
same.

17/8/2000  
REGISTRAR

ORDER DT. 19.2.2001.

It is submitted by learned standing counsel  
Mr.D.N.Mishra that Madam S.L.Patnaik is appearing  
for the Respondents. Accordingly, name of Mr.D.N.  
Mishra be deleted. Copy of counter served on the  
other side on 18.8.2000. Rejoinder not filed. Learned  
counsel for the petitioner is absent. Further time  
can not be allowed. Pleadings are taken to be  
complete. Adjourned to 22.3.2001, for hearing and  
final disposal at the stage of admission.

Vice-Chairman  
19/2  
Member (Judicial)

Order dated 22.3.2001

Learned counsel for the petitioner and  
Associates are absent. There has been no request made  
on their behalf seeking an adjournment. In this  
matter pleadings have been completed and in the  
absence of any request for adjournment, it is not  
possible to drag on the matter indefinitely. We,  
have therefore, heard Ms.S.L.Patnaik, learned Addl.  
Standing Counsel for Respondent No.1 and Shri D.N.  
Mishra, learned Standing Counsel appearing on behalf  
of Respondent No.2 and also perused the records.

In this O.A. the petitioner has prayed  
for a declaration that the process of selection in  
which the applicant participated and was not selected  
is illegal and void. He has also asked for a  
direction to Respondents to allow him to appear at  
a psychological test afresh and to face the viva  
voce test and thereafter to publish the merit list  
and in case the applicant comes out successful for  
being placed in the merit list, to give him  
appointment.

Respondent No.2 has filed counter opposing  
the prayer of the applicant. No counter has been  
filed on behalf of Respondent No.1.

For the purpose of considering this  
petition it is not necessary to go into too many

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

counter  
not filed.

~~RA~~ Registrar  
11/8

DT. 14.8.2000

The Advocates  
were refrained from  
court work. No steps  
have been taken to  
serve copy of counter.  
Posted to 18.8.2000  
for the same.

~~RA~~  
14/8/2000  
**REGISTRAR**

serve counter not  
~~RA~~  
17/8

Refrain

18-8-2000.

Copy of the counter  
served on the applicant's  
counsel who has for  
time to file reply.  
for reply if any.

~~RA~~  
18/8/2000  
**REGISTRAR**

Refrain my

filed.

~~RA~~  
5/9  
Refrain  
J.M.

facts of this case. The admitted position is that the applicant belongs to Scheduled Caste category. He applied for the post of Assistant Train Driver in response to Employment Notice. He was called to the written test and after being successful in the written test he was called to appear at the psychological test, which is meant for adjudging the alertness of the candidates, being a necessary part of the selection procedure for safety category of posts, like Asst. Train Driver. The applicant has stated that accordingly, he appeared at the psychological test. He has also stated that in the psychological test many irregularities were noticed and the applicant mentioned this to the appropriate authority, but without any result. Ultimately the result of the written examination held on 4.9.1999 and the psychological test held from 7th to 18 and 22nd to 26th of September, 1999, was published, but the name of the applicant did not find place in that merit list. xx. He has further stated that even though he is fit for the post, intentionally he was not selected. It xxx is stated that Respondent No.3 neither supplied the marksheet nor published any merit list which violates the principles of natural justice. In the context of the above, applicant has come up with the prayers referred to earlier.

From the above recital of pleadings of the applicant it is clear that all his grievance is with regard to conducting of the examination by the Recruitment Railway/Board. Accordingly Railway Recruitment Board has filed counter. No relief has been claimed against General Manager, S.E. Railway (Respondent No.1). Respondent No.1 has admitted that the applicant was eligible for being considered for the post of Asst. Train Driver and that he was called to a written examination in which he qualified. It is also the admitted position that he was called to psychological test, in which he did appear. They have further stated that applicant could not come out successful in the psychological test and accordingly he was not called to viva voce test nor his name was put in the merit list.

From the above pleadings of the parties it is clear that the sole question for consideration

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Dt. 6.9.2000

The learned counsel for the applicant pray for time to file rejoinder prayer allowed. Time granted till 15.9.2000 as last chance for rejoinder.

*[Signature]*  
6/9/2000  
**REGISTRAR**

Rejoinder not filed.

*[Signature]*  
14/9 Rejected

Dt. 15.9.2000

The learned applicant counsel pray for time to file rejoinder. Sufficient time was given. Last chance is over.

Put up to Bench for further orders.

*[Signature]*  
15/9/2000  
**REGISTRAR**

Rejoinder not filed.  
*[Signature]*  
6/12 Bench

in this case is whether the psychological test was properly conducted and whether the applicant's name was unfairly excluded from the list of candidates, who have qualified in the psychological test.

Applicant in this O.A. has made a bald statement that at the time of holding of psychological test, he noticed many irregularities and mentioned this fact to the officer concerned. Applicant has not ~~given any~~ indicated in his petition as to what those irregularities were? He has also not come out with rejoinder giving the details negligence and/or irregularities committed by the authorities concerned during psychological test, even after receipt of counter, in which Respondent(s) have stated that psychological test was conducted in accordance with rules and instructions. In consideration of the above, the contention of the petitioner that there were many irregularities committed by the authorities during the ~~the~~ psychological test cannot be accepted, and it must be held <sup>the</sup> from ~~the~~ averment of of the respondents that psychological test was conducted in a fair manner. As the applicant could not come out successful in the psychological test only, he was not considered fit. Applicant has urged no ground as to why there should be a 2nd psychological test. ~~Even if~~ If this is allowed, then a large number of candidates who have been failed in the psychological test, like ~~that the~~ ~~of~~ the applicant will also come up with the same prayer. In view of the above, we hold that the applicant is not entitled to any of the reliefs prayed for in this O.A., which is accordingly rejected, but without any order as to costs.

*[Signature]*  
MEMBER (JUDICIAL)

*[Signature]*  
VICE-CHAIRMAN  
22/3/2001