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17. 05.03.2001

As per request made on behalf of Mr. A.K. Bose, learned Sr. C.G.S.C. matter is adjourned to 22.03.2001.

Mr. Chatterjee

for Admision

Bench

21.3.01

Member (J)

18. ORDER DATED 22-3-2001.

Learned counsel for the applicant and his Associates are absent without any request for adjournment. In this case pleadings have been completed long ago. In view of this, it is not possible to drag on the matter indefinitely. We have therefore, heard Mr. A.K. Bose, learned Senior Standing Counsel appearing for the Departmental Respondents. Private Respondent No. 5th s counsel is also absent without any request for adjournment. Therefore, we did not have the benefit of hearing them.

2. For the present purpose, it is not necessary to go into too many facts of this case. Admittedly, five applicants applied for the post of Fireman under the Departmental Respondents i.e. Director Interim Test Range and they were called for physical test to be followed by written test and interview for those who have qualified in the physical test. Applicants appeared in the physical test and according to them they have come out successful but they were not called for the written test and interview. They have stated that Respondents

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4&5 did not appear in the physical test but they were called to the written test and interview. In the context of the above facts, they have come up in this Original Application with the prayer to direct the Respondents 1 to 3 to cancel the provisional selection list dated 16.2.1999, to set aside the merit list of Respondents 4 and 5 and to direct for consideration of the case of applicants for appointment as fireman.

3. Departmental Respondents have filed counter opposing the prayers of applicants. It has been submitted by the Departmental Respondents that for filling up of the 12 posts of Fireman, call letters for physical test were issued 2157 short listed candidates. In response to that 1229 candidates appeared in the physical test on 2nd, 4th, 8th and 10th of February, 1999. Out of the total 85 numbers of candidates were successful in the physical test. Respondents have further stated that some ex-servicemen appeared in the physical test on 15.2.1999 as they could not appear on 10th of Feb, 1999. In pursuance of the order of the Tribunal in OA No. 48/99 one Shri Ranjan Sankar Pradhan was also allowed to take the physical test ~~for~~ the second time on 15th of February, 1999 but neither the ex-serviceman as stated above nor Mr. Pradhan qualified in the physical test. Respondents have stated that applicants 4 and 5 as also Respondents 4 and 5 were called for the written test and interview on 11.2.1999. Other three applicants could not qualify in the physical test and therefore, they were not called for the written test and interview. Applicants 4 and 5 who were called for the written test and interview

SJM

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could not be included in the list on the basis of the performance in the written test and interview. On the above grounds the Respondents have opposed the prayers of applicants. From the ~~above~~ pleadings of the parties, we find that two of the applicants qualified in the physical test and were called to the written test and interview. Respondents 4 and 5 appeared in the physical test as originally scheduled and the contention of applicant that Respondents 4 and 5 did not take the physical test at all has been denied by the Respondents. This assertion of the Respondents has not been denied by the applicants by filing any rejoinder. In view of this, we hold that Respondents 4 and 5 have appeared in the physical test as per scheduled. So far as non-selection of applicants for the post, three of the applicants could not qualify in the physical test and therefore, were not called to the written test and interview. Two other applicants i.e. applicants 4 and 5 were qualified in the physical test and were also called for the written test and interview. Merely because of their assertion that they had done well in the written test and interview, it can not be held that they ~~have come out~~ are entitled to be included in the merit list. ^{A. J. M.} In view of this, we hold that the application is without any merit and the applicants are not entitled to any of the reliefs claimed by them in this O.A. The Original Application, is therefore, held to be without any merit and is rejected. No costs.

L. —
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE CHIEF JUDGE
20/10/2010

Free copies of
Final Order
dt. 22.3.01 issued
to counsels for
both sides. *R. N. B.*
S. C. J.

KNM/CM.

26/3/01