

6  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O. A. NO. 457 OF 2013

Cuttack the 25<sup>th</sup> day of July, 2013

CORAM

**HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER**  
**HON'BLE MR. R. C. MISRA, ADMINISTRATIVE MEMBER**

Subash Kumar Parida,  
aged about 27 years,  
Son of Jaykrishna Parida,  
At/P.O./P.S- Bolgarh,  
Dist-Khurda.

...Applicant

(Advocates: M/s-B.P. Satapathy, B.K. Nayak, S. Pradhan )

**VERSUS**

Union of India Represented through

1. General Manager,  
East Coast Railway,  
2<sup>nd</sup> Floor, South Block,  
E.Co.R Sadan, Samanta Vihar,  
P.O. Mancheswar, Bhubaneswar,  
Dist-Khurda-751017, Odisha.
2. Chief Personnel Officer,  
East Coast Railway,  
2<sup>nd</sup> Floor, South Block,  
E.Co.R Sadan, Samanta Vihar,  
P.O. Mancheswar, Bhubaneswar,  
Dist-Khurda-751017, Odisha.
3. Deputy Chief Personnel Officer (Recruitment),  
Railway Recruitment Cell,  
East Coast Railway,  
2<sup>nd</sup> Floor. South Block,  
E.Co.R Sadan, Samanta Vihar,  
P.O. Mancheswar, Bhubaneswar,  
Dist-Khurda-751017, Odisha.

... Respondents

(Advocate: Mr. T. Rath

*Alleg*

ORDER(Oral)

HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER

We have heard Mr. A.K. Sahoo, Ld. Counsel appearing for the applicant, and Mr. T. Rath, Ld. Standing Counsel appearing for the Railways and perused the records.

2. It is the case of the applicant that he belongs to Other Backward Class (OBC). In pursuance to the notification/advertisement issued by the Railway the applicant applied for the post of Token ~~Potter~~ <sup>Porter</sup> under the OBC category. Upon being qualified in the written test held on 05.05.2012, he appeared in the physical efficiency test on 27.10.12 at 10.30 A.M. and was disqualified. Being aggrieved, he submitted a representation dated 31.10.12. The grievance of the applicant is that he was issued Token No.14 and the authorities have allowed him to run at 1 P.M. under scorching sun which was completed after running 1450 meters. In earlier occasion, notice was issued on 28.10.06 in which 07 minutes time was granted to the candidates to run for 1500 meters but in the captioned notice dated 17.12.10 the said timing was fixed to only 06 minutes instead of 07 minutes without any justifiable reason. It is the case of the applicant is that had he been allowed 07 minutes, he would have completed the targeted running. Further case of the applicant is that, had he been allowed to run at 10.30 A.M. he could have completed 1500 meters in 06 minutes also. As he was allowed to run at 1 P.M. he failed to achieve the target and consequently disqualified in the test. The reason assigned by the

*Alas*

8

Respondents in their letter of rejection dated 13.12.12 which reads as under:-

“ You have stated that, in the employment notice dated 28.10.2006, 7 minutes' time was given to run & complete 1500 meters, and as per the notification dated 17.12.2010, the said PET timing was fixed to 6 minutes without any justifiable reason. In this regard, it is hereby informed that PET is a part of the recruitment process which is conducted after the written exam. In the notification dated 17.12.2010, it has been clearly indicated that PET is of qualifying nature and a male candidate has to run 1500 meters in 6 minutes in one chance, and a female candidate has to run 400 meters in 3 minutes in one chance. The above PET stands have been fixed by the Railway board vide letter No.E(NG)-II/96/RR-1/62/Vol.II dtd.12.03.2007 (RBE No.37/2007) and accordingly the same has been notified by Railway Recruitment Cell, Bhubaneswar in the notification dated 17.12.2010. The timing set under REB No.37/2007 is applicable for the present test.

Your assumption that had you been given 7 minutes' time you would have completed the run is not a valid point and is not relevant. All the candidates who have attended for PET conducted by Railway Recruitment Cell, Bhubaneswar during October, 2012 have been subjected to the same PET standards as applicable for male and female candidates and there was neither discrimination nor favouritism given to any candidate. The PET has been conducted as per the existing instructions/ guidelines issued by Railway Board and have been videographed with respect to its time taken by each candidate.

Further, all the candidates who have been called for PET, have been called serially as per their roll number. You had been asked to report on 27.10.2012 at 10.30 a.m. as per your roll number. You may be aware that Railway Recruitment Cell, Bhubaneswar had called 1000 candidates per day and the PET for the candidates has been conducted in batches since it is impossible to make all candidates run in one batch. On reporting to the PET venue you had also been allotted with a particular batch number and colour code and you were called for PET as per your turn. For allotting candidates, no discrimination or favouritism has been shown by Railway Recruitment Cell and the allegations are totally baseless, unfounded and lacks merit. The PET has been conducted in a transparent manner and the entire PET has also been videographed. It has been

*Alles*

clearly stated in the notification that candidates will be given only one chance to participate in PET. Your request for giving another chance on another date to participate in the PET is not a valid request and the same cannot be accepted. As per the result declared, you have not qualified in the PET and accordingly your result stands confirmed."

3. Law is well settled that the conditions stipulated in the advertisement have the binding effect. The applicant being fully aware of the conditions stipulated in the advertisement has applied and appeared in the examination. It is also not the case of the applicant that the Respondents have deviated <sup>from</sup> any of the conditions put in the advertisement. Further, law is well settled that having appeared and failed a candidate is <sup>estopped</sup> ~~estopped~~ to challenge the manner of conducting the examination or the conditions stipulated in the advertisement. As regards allowing the applicant to run at 1 P.M. as alleged by the Applicant, it has been stated by the Respondents in the order of rejection that the applicant was allowed when his turn came. Applicant himself admitted that he did not qualify in the test. On examination of the points raised by the applicant, <sup>and</sup> the relief claimed in the O.A. vis-à-vis the order of rejection dated 13.12.2012, <sup>we</sup> find no justifiable reason to intervene in the matter. Hence, the O.A. stands dismissed. No costs.

  
(R.C. MISRA)  
ADMN. MEMBER

  
(A.K. PATNAIK)  
JUDICIAL MEMBER