

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.576 of 1996

Present : Hon'ble Mr. D. Purkayasha, Judicial Member.

Hon'ble Mr. G. S. Misingi, Administrative Member.

PRANAB GHOSH

Vs.

... Applicant

1. Union of India through the Chairman, Railway Board & Ex-Officio Principal Secretary, Ministry of Railways, Govt. of India, Rail Bhawan, New Delhi-110 001.
2. The Railway Board through the Secretary, Railway Board, Rail Bhawan, New Delhi-1.
3. The Chairman, Central Board of Secondary Education, 2, Community Centre, Prest Vihar, Delhi-92.
4. The General Manager, S.E. Railway, Garden Reach, Calcutta-700 043.
5. The Chief Personnel Officer, S.E. Railway, Garden Reach, Calcutta-43.
6. The Assistant Personnel Officer (W), S.E. Railway, Garden Reach, Calcutta-43.
7. The Chairman, Railway Recruitment Board, M.M. Buildings, 4th Floor, 16 Strand Road, Calcutta-700 001.

... Respondents

For the applicant : Mr. Samir Ghosh, counsel.
Mr. T.K. Biswas, counsel.

For the respondents: Mr. P. Chatterjee, counsel.

Heard on : 16.2.2000

Order on : 02/3/2000

ORDER

G. S. Misingi, A. M.

The applicant has filed this O.A. u/s 19 of the A.T. Act, 1985, challenging the order dated 29.3.1996 issued by the Assistant Personnel Officer (W), S.E. Railway, Garden Reach, Calcutta-43, communicating the rejection of the competent authority on the representation made by the applicant to the General Manager, S.E. Railway, Calcutta.

2. The facts of this case are that an advertisement was issued by the Ministry of Railways in 1991 under the heading "2 Years Job Linked full 2 Years Vocational Course in Railway" (annexure 'A/1' to the G.A.). As per this advertisement, applications were invited for the vocation/^{al} course of 2 years from the candidates falling in the age group of 15-20 years and appearing for the 10th Class Final Examination in the academic year 1991-92. The entrance examination for this purpose was to be held on 3rd of February, 1992. Those candidates who qualified in the written examination, followed by an interview, were to be offered admission to the vocation course on the basis of the marks. It was further laid down in the said advertisement that those who pass the entrance examination and qualify for admission will be admitted to the two-year vocational course in Railway Commercial, commencing from the academic year 1992-93, provided they pass the 10th Class Examination with at least 50% marks (40% in the case of SC/ST candidates). After successful completion of the course (by securing at least 55% marks in the aggregate, 45% in the case of SC/ST) and passing the medical examination, the candidates may be appointed in Railway Service as Commercial Clerks/ Ticket Collectors. The applicant had appeared in the Senior School Certificate Examination and had applied for the entrance examination for the vocation/^{al} course. The CBSE Rules allowed re-admission to sit for the subsequent test to improve one's performance and to sit for the compartmental test if one failed. The applicant appeared in the main examination in March 1994, after completion of the 2 years course but was not successful in the same. He was allowed re-admission for the 1995 Examination and appeared in the said examination and obtained the requisite marks in all subjects except Commercial Working and for this subject he was allowed to sit in the compartmental examination in August, 1995, in which he secured more than the requisite marks. This way the applicant secured more than 55% marks in the aggregate and also in the Railway Commercial. C.P.O., S.E.Railway, vide his letter dated 7.6.1994, circulated a copy of the letter of the Railway Board dated 20/24.5.1994, to the General Managers, All

Indian Railways (annexure 'A/2'). This letter stated that students who pass the vocational course with at least 55% marks (45% in case of SC/ST) in Railway Commercial Working as well as in the aggregate, are to be offered appointment on the Railways as Commercial Clerks or Ticket Collectors. A question has been raised in this connection whether students who clear the course through supplementary examinations may be offered appointment. It is clarified that appointment may be offered to the candidates who were either placed under compartment or who could not secure the prescribed percentage of marks, on their clearing the compartment and securing the prescribed percentage in the subsequent chances given by CBSE for taking the examination. This letter was based on a letter of the Northern Railway being No. 220 E/ 1878/ Pt. III dated September, 1993. It is clear from the above letter of the Railway Board that appointment as Commercial Clerks or Ticket Collectors may be offered in the Railways to the candidates who are either placed under compartment or who could not secure the prescribed percentage of marks on their clearing the compartment and securing the prescribed percentage in the subsequent chances given by CBSE for taking the examination. This instruction was to be followed by the Railway authorities till about the end of October, 1995, as can be observed from annexure 'R/1' to the reply of the respondents, which is a letter of the Joint Director, Estt. (Welfare), Railway Board's letter dated 27.10.1995 to Shri B.P.Khandelwal, Chairman, CBSE, New Delhi, and a few others. This letter has been circulated to the Railway Zones as Minutes of the meeting of the monitoring Committee in Vocational Course in Railway Commercial held in the Ministry of Railways on 17.10.1995. The letter reads like this -

"It was decided that a student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later."

It is clear from this letter that a student who had failed or had been placed in compartment or who did not obtain the

requisite marks in the first attempt, may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later.

3. The O.A. was listed for hearing on 16.2.2000 when the applicant was represented by the 1st. counsel, Mr. Samir Ghosh, leading Mr. T.K. Biswas, 1st. counsel, and the respondents were represented by Mr. P. Chatterjee, the 1st. counsel.

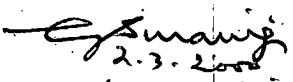
4. The main issue for consideration is whether the applicant is eligible to be offered appointment on the basis of the letter of the Railway Board dated 27.10.1995 alongwith which the minutes of the meeting of the Monitoring Committee in Vocational Course in Railway Commercial held in the Ministry of Railways on 17.10.1995 is enclosed. It is true that the applicant had failed in his first attempt in the year 1994. He appeared again for the examination in the year 1995 and got compartmental and cleared the compartmental in September, 1995, and secured the prescribed percentage of 55% for getting appointment, as is also evident from paragraph 7 of the reply of the respondents. This clearly demonstrates that before the instructions of the Railway Board were issued in September, 1995, the applicant had become eligible for being given an offer of appointment, which the railway authorities had not done. The applicant had also made a representation to the Chief Personnel Officer of S.E. Railways on 29.9.1995, stating therein that he was selected by the Railway Recruitment Board Calcutta for Vocational Course in Railway Commercial and he had also qualified in the A.I.S.S.C.E. 1995 (Compartmental) which was held on 5.8.1995 and that he should be offered an appointment for the post of Commercial Clerk/Ticket Collector which was a pre-condition of vocational course. The CPO S.E. Railway, wrote a letter to the Sr. Personnel Officer (RP), S.E. Railway, Garden Reach Calcutta, on 17.11.1995 stating therein that as per the Railway Board's letter dated 27.10.1995, a student who had failed or has been placed in the compartment or who did not obtain the requisite marks in the first attempt, may be offered appointment only if he obtains the required percentage of marks

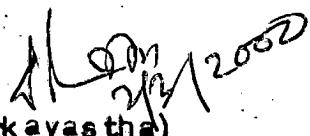
after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later. There is no doubt that the present applicant had cleared the examination in the next academic year i.e. 1995 and had become eligible for appointment as Commercial Clerk/Ticket Collector in the Railways. It was stated in the last paragraph of the letter dated 17.11.1995 that the matter has been put up to the competent authority for taking further decision and in view of the same, it was requested that the offer of appointment to the applicant be kept pending till further orders. The applicant made another representation to the General Manager, S.E.Railway, on 12th March, 1996. It has been contended on behalf of the applicant that there are many others who had not qualified in the first attempt but had qualified subsequently and had been offered appointment in the Railways.

5. We have carefully gone through the evidence placed on record, the contents of the letter of the Railway Board dated 20/24.5.1994, the contents of the minutes of the meeting of the monitoring committee held on 17.10.1995 and have come to the conclusion that the present applicant had qualified before issue of the Railway Board's letter and, therefore, he is eligible for appointment as Commercial Clerk/Ticket Collector in the Railway, in terms of the Railway Board's letter dated 20/24.5.1994 (annexure 'A/ 2').

6. In view of the above, we direct the respondents to give the instant applicant ^{for Govt} the appointment within a period of two months from the date of communication of this order.

7. This O.A. is as such allowed without passing any order as to costs.


2.3.2000
(G.S. Mungji)
Administrative Member


27/3/2000
(D. Purkayastha)
Judicial Member