

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.D.A.814 of 1996

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman.
Hon'ble Mr. M.S. Mukherjee, Administrative Member.

S.M.I. ARFEEN s/o Late S.M.A.
Nayem, aged about 50 years,
working for gain as Electrical
Goods Driver, S.E. Railway,
Anara, at present residing in
Railway Qtrs. No.L/81 'D' Bun-
galow Side, PO : Anara (R.S.),
District : Purulia, West Bengal.

... Petitioner

Vs.

1. Union of India through General
Manager, S.E. Railway, Garden Reach,
Calcutta-43.
2. General Manager, S.E. Railway, GRC,
Calcutta-43.
3. Divisional Railway Manager,
S.E. Railway, Adra.
4. Divisional Personnel Officer,
S.E. Railway, Adra.

... Respondents

For the petitioner : Mr. B.C. Sinha, counsel.

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

Heard on : 5.9.1997

Order on : 18.9.1997

O R D E R

A.K. Chatterjee, V.C.

The petitioner, an Electrical Goods Driver of S.E. Railway, has challenged the letter issued by D.P.O., Adra, on 26.6.1996 whereby 44 staff, which did not include the petitioner, were called to an oral test due to be held on 2/7. to 4/7/1996 for selection for the post of Electric Passenger Driver.

2. The grounds for the challenge are that it did not ^{state} include

the break-up of UR, SC and ST vacancies, as required by Establishment Sl.No.42 of 1984 and that minimum time before holding of the test was not allowed. In such circumstances, the petitioner has prayed for quashing the letter dated 26.6.1996 and other reliefs.

3. The respondents in their reply contend that the break-up of UR, SC and ST candidates were omitted due to inadvertence, but SC and ST candidates were called according to the post~~ion~~ to be filled up by them as per roster point. It was also stated that since a selection was to be made on the basis of an oral test, one month's time as normally allowed, was not given. An interim order was made when the application was filed on 8.7.1996 to the effect that the test as scheduled might be held but the result thereof could not be published till the next date of hearing which was extended from time to time and continues to this date.

4. We have heard the ld.counsel for the parties and perused the records.

5. The petitioner contends that as many as 6 SC and 5 ST candidates were called although it was learnt that all the vacancies ^{were} ~~are~~ earmarked for UR candidates. He further contends that the SC and ST candidates who had been called, got accelerated promotion in the feeder grade and, therefore, they ^{would} ~~should~~ not have been called if their basic seniority was considered and in that case, the petitioner would get a call to the post of Electric Passenger Driver.


6. The respondents no doubt contend that there were short fall of SC and ST candidates in the promotional post, but their ld. counsel, with his usual fairness, has stated that the break-up was not ^{given} ~~done~~ in the call letter dated 26.6.1996 through inadvertence. There is also no doubt that ^{this} ~~there~~ is a mandatory requirement according to Establishment Serial No.42 of 1984 and it is on record that some other selection was cancelled by the respondents themselves for such omission. In such circumstances, the conclusion must be that the omission to state in the call

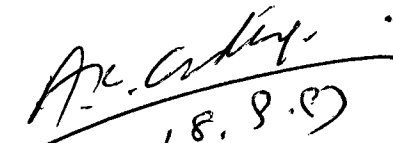
letter the break-up of SC and ST candidates, is not cured by averments made in the reply. The question of locus standi of the petitioner may no doubt arise, but we find that there is no specific denial by the respondents to the assertion of the petitioner that he would get a call if SC and ST candidates who, according to him, were ineligible, were not called. However, in the present case, we do not propose to embark upon an enquiry regarding eligibility of SC and ST candidates who have been called and whether the petitioner will get a call if those candidates were not asked to appear in the test. As the omission to state the break-up is a material irregularity, the test held on the basis of such call letter, cannot be sustained.

7. The ld.counsel for the petitioner has also pointed out the relevant rules which require that in case of selection by oral test only, as in the present case, there must be a minimum interval of 15 days ^{between the date} on which the selected list is decided and the date on which the viva-voce test is held. The respondents have contended that in case of selection by written test, a minimum of one month's time is allowed. This is not ^{an} the answer to the rule shown by the ld.counsel for the petitioner requiring a minimum of 15 days time as indicated above. This too is an irregularity for which the test cannot be sustained.

8. On the above premises, the letter dated 26.6.1996 (annexure 'A/1' to the petition), is quashed and the respondents are directed to issue suitable order cancelling the test which has already been held on the basis of the said letter. Any fresh test may be held strictly according to rules.

9. No order is, however, made as to costs.


(M.S. Mukherjee)
Administrative Member


(A.K. Chatterjee)
Vice-Chairman