

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 997 of 1996

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

Swadhin Bhattacharya, s/o Late Bholanath  
Bhattacharya, working as Khalasi under  
S.I.(11) at Jasidih, Eastern Railway,  
residing at Jasidih, Bihar.

..... Applicant

-Vs-

1. Union of India, thr. The General Manager,  
Eastern Railway, Calcutta.

2. The Divisional Railway Manager, Eastern  
Railway, Asansol.

..... Respondents

For applicant : Mr. B. Chatterjee, counsel

For respondents: Mr. P.K. Arora, counsel

Heard on : 9.6.1997

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Order on : 28.7.1997

O R D E R

A.K. Chatterjee, VC

The petitioner, who was a Class-IV staff working as Khalasi at Josidih in Eastern Railway appeared in a written test for promotion to the post of Clerk-Gr.II and according to him, he had scored highest mark <sup>in</sup> to the written test as his name appeared at the top of the list of successful candidates, who were to appear in the viva-voce.

in order of merit and the petitioner did not score the highest mark in the written test. Their further case is that he did not come out successful in the selection which was made according to the extant rules.

3. The petitioner has filed a rejoinder disputing the contention raised by the respondents in their reply.

4. We have heard the Id.Counsel for the parties and also perused the records as well as the record regarding selection of candidates by the Selection Board.

5. We find no merit in the petitioner's contention that since his name appeared at the top of the list of candidates, who were successful in the written test, he had scored the highest mark in this test. In fact, the result of selection has been produced before us, which indicated that the petitioner had scored barely 30 out of 50 marks in the written test and many candidates had secured marks well above that of the petitioner. We also find that out of remaining 50 marks allotted to professional ability, record of service and personality etc., the petitioner had secured only 17.5. Thus, in the aggregate, he had scored only 47.5 out of 100. The respondents have stated in the reply that the qualifying mark under the rules is 60% for candidates belonging to unreserved category like the petitioner and therefore, there is no manner of doubt that on the basis of the result, he cannot be regarded to have passed the selection test.

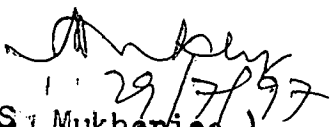
6. The Id.Counsel for the petitioner has also argued that marks in the test were not properly allotted and it was in violation of the provision of para-219 of the Indian Railways Establishment Manual - Vol.I as no <sup>credit</sup> ~~ground~~ was given for seniority as required by the said rule. Now Rule 219 governs promotion of Group-C staff and therefore, it cannot be successfully urged that the selection in question, which was for promotion of Group-D staff

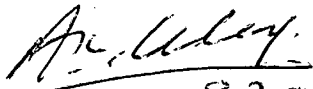
be irregular being in violation of Rule 219 of I.R.E.M. - Vol.I, 1989 Edition.' The respondents, on the other hand, have categorically stated that the selection test was held in accordance with the extant rules, which has not been specifically controverted in the rejoinder filed by the petitioner. In the circumstances, we are unable to hold that the selection procedure was defective for not following Rule 219 referred to above.'

7. We are also unable to see any merit in the contention of the petitioner that he was maliciously left out of the consideration because of his trade union activities. There is nothing before us to lend support to this contention save a bald assertion by the petitioner himself and obviously the selection cannot be struck down on its basis.'

8. It may also be pointed out that the petitioner had appeared in the written test and also in the viva-voce test, which followed and made no complaint regarding non-observance of rules relating to selection till the panel was published. Thus, he waited till publication of the final result and only when he found that he was not declared successful, he came out with the instant application raising different grounds challenging the selection about which he remained silent even after appearing in the test.'

9. On the above premises, we find no merit in the application, which is, therefore, rejected. No order is made as to costs.'

  
( M.S. Mukherjee )  
Member (A)

  
( A.K. Chatterjee )  
Vice-Chairman