

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 433 of 1996.

Date of Order: 24.3.2004.

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member
Hon'ble Mr. N. D. Dayal, Administrative Member

SUPRABHAT MAITY AND ORS.

VS.

UNION OF INDIA AND ORS. (S.E.Rly.)

For the Applicant : Mr. S.K. Dutta, counsel

For the Respondents : Mr. P. Chatterjee, counsel
Mr. B.P. Roy, counsel

ORDER

MR. N. D. DAYAL. AM:

We have heard ld. counsel for both the parties.

2. The three applicants in this case have prayed for the following reliefs:

i) Leave to file this application jointly under Rule 4(5)(a) of the Administrative Tribunals (Procedure) Rules, 1987 since the cause of action and relief sought for were same and similar.

ii) To declare that the applicants are similarly circumstanced and are suitable for empanelment/appointment to the post of Chargeman/Diesel Chargeman/Txrs. and to get the benefit of the order and judgment of this Hon'ble Tribunal without making any hostile discrimination in the facts and circumstances of the case.

iii) To cancel, withdraw and/or rescind the purported decision and order of rejection of the cases of the applicants and the order dated 12.1.1996 contained in Annexure-E hereof and to direct the respondents to issue letter of appointment to the applicants in no time.


iv) And to pass such further or other order or orders as to your Lordships may seem fit and proper."

3. The case of the applicants is that they had appeared in the written and viva-voce tests along with the applicants in the two O.A.s No. 1102 of 1993 and O.A. No. 1103 of 1993 which were decided by this Tribunal on 25.4.1994 declaring all the applicants therein to have passed in the selection test for appointment to the post of Chargeman/Diesel Chargeman/TXr. etc., on the basis of marks obtained by them in the written and viva-voce tests and holding them to be eligible for such appointment.

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4. Ld. counsel for the applicant submits that even though there were 150 persons who were called for test, since all of them did not file applications before this Tribunal, therefore, no such order was passed in their respect. Later on they filed O.A. No. 03 of 1995 which was disposed of directing the official respondents to consider the representation of the applicants therein. The representations were considered by a speaking order and their request was disallowed. Ld. counsel for the respondents has stated that since the marks obtained by them were below those of the applicants in the two O.A.s of 1993 and since they were not applicants in those two O.A.s they were not declared to have passed in the selection. Ld. counsel for the applicants has argued that the applicants in the present O.A. were similarly situated as applicants in O.A.Nos. 1102 of 1993 and 1103 of 1993. Not only because they were amongst the 150 candidates who were called for the viva-voce test but also because the applicants in those two O.A.s were declared to have passed in terms of the directions of the Tribunal without having taken into account the minimum qualifying marks. As such the fixation of minimum qualifying marks in respect of other candidates is arbitrary and contrary to the decision of the Tribunal in those two O.A.s. Hence, the applicants ought to have been declared to have passed on the basis of the marks obtained by them in both written and viva-voce tests and in terms of the earlier direction of the Tribunal. To our specific query, ld. counsel for the respondents has admitted that in case the present applicants would have been parties in the earlier O.A. Nos. 1102/1993 and 1103/93, they would have fallen within the same category as the applicants in the above O.A.s and would have been declared to have passed on the basis of percentage of marks secured by them in terms of the directions of the Tribunal.

5. In view of the above submissions, we find considerable force in the contention advanced by the ld. counsel for the applicants and we are of the considered view that the applicants of the present O.A.



are also entitled to the same reliefs as have been granted to the applicants in O.A. Nos 1102 of 1993 and 1103 of 1993 and this O.A. is to be disposed of on the same terms and conditions and with the same direction.

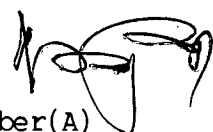
6. In the result, we hereby set aside the order dated 12-1-1996 (Annexure-E to the O.A.) and the respondents are directed that -

(i) all the applicants herein be declared to have passed in the selection test on the basis of marks obtained by them in the written and viva-voce test and are held eligible for appointment to the posts of Chargeman/Diesel Chargeman/Txr. etc. They shall be deputed for appropriate training for the purpose.

(ii) Those applicants who did not produce the requisite degree or diploma certificates as required, may be granted one month's time by the respondents to produce the same.

(iii) The respondents are directed to issue necessary orders for appointment in respect of the applicants after completing requisite formalities within six weeks from the date of communication of this order.

7. The OA is accordingly allowed. There shall be no order as to costs.


Member(A)


Member(J)