

AS

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

C.A. NO. 403/95

Date of Order : 6.10.95

S.R. Singh

.. Applicant

Vs.

Union of India and Others

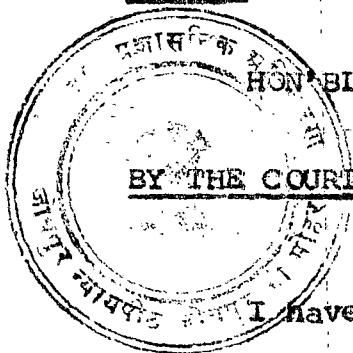
.. Respondents

Mr. S.K. Malik, counsel for the applicant.

Mr. S.S. Vyas, counsel for the respondents No. 1 to 3.

Mr. N.K. Khandelwal, counsel for the respondent No. 4.

CORAM :



HON'BLE MR. N.K. VERMA, ADMINISTRATIVE MEMBER.

BY THE COURT :

I have heard learned counsel for the parties.

2. Shri S.K. Malik reiterated his case for admission on the ground that the selection of the respondent No. 4 was not fairly done by the Screening Committee vis-a-vis the applicant who had been working for the last two years as Instructor in the same place where the respondent No. 4 has now been posted. He has been awarded a cash award for his brilliant performance and ACRs were undoubtedly better than that of respondent No. 4 and hence, he sought interference of this Tribunal in his appointment. Mr. Malik, also brought to my notice that the respondent No. 4 had been staying at Bhagat Ki Kothi for last 17 years and there were number of allegations ~~of~~ corruption against him and

N.K.Verma

one of the unions of Railway had also telegraphically requested the Railway administration not to post him as Instructor at Bhagat Ki Kothi. Compared to respondent No. 4, the applicant had very clean record of service and moreover, he was Scheduled Cast candidate who had to be given a special consideration by the Screening Committee.

3. Shri S.S. Vyas, learned counsel for the respondents No. 1 to 3 contested the averments of the applicant by saying that there has been no specific allegation of malafide or colourable exercise of power on the part of Screening Committee which had declared the result of the successful candidates who appeared for the test on 6.3.95. Moreover, the allegations have ~~been~~ <sup>been</sup> only made against one of the successful candidate i.e. respondent No. 4 while the selection of other officials mentioned in that order at Annexure A/1 has not been contested. The post of Instructor is an ex-cadre post which is required to be filled up on selection basis for tenure on deputation. Applicant has no right on this post as he was not found suitable for the same by the Screening Committee and hence the O.A. is not maintainable. Shri Vyas also brought to my notice that the applicant has made representation against his non-selection on 7.9.95 as per Annexure A/12 and naturally he has to wait for a reply to the same.

4. Shri N.K. Khandelwal appearing for the respondent No. 4 apointedly brought to my notice, the Railway Circular available at Annexure A/13, wherein it has been clearly mentioned that posts of Instructors in training schools are in ex-cadre and there is no reservation

for Scheduled Caste - Scheduled Tribe candidates while filling up such posts. However, instructions were issued by the Railway Board wherein it is laid down that a fair proportion of the posts of Instructors, Lecturers, Vigilance Instructors etc. which are filled on tenure basis on deputation should be filled up by Scheduled Caste- Scheduled Tribe employees. In that very order of the Railway Board dated 15.4.91, it has been reiterated that Scheduled Caste- Scheduled Tribe employees be given encouragement, due consideration and also a certain amount of preference in the selections as permissible under the rules, so that they are well represented in such posts. The very fact that the applicant has not been selected inspite of the instructions as indicated as he was not found suitable by the Screening Committee. Hence, the question of his contesting the selection of respondent No. 4 did not merit adjudication.

5. I have given serious consideration to the averments and arguements of all the parties. Although the applicant has been working as an Instructor for the last two years and he is a SC employee, the reasons for his non inclusion in the select list cannot be questioned as there has been no averment regarding malice or malafide on the part of the Screening Committee Members for his non-selection. Thus, this Tribunal can not sit over the judgement on the selection made by the Screening Committee. Besides, the applicant has not exhausted the remedies available to him departmentally. Having once filed the representation, the applicant has necessarily to wait for a reply thereto. He could have approached this Tribunal only after a lapse of six months after the representation was filed by him. Thus, on both these

grounds, the application is not maintainable and is, therefore, dismissed at the stage of admission. However, if the applicant is not satisfied with the disposal of the representation, he will be at liberty to approach this Tribunal, if so advised.

6. No order as to costs.

N. K. Verma  
( N. K. VERMA )  
MEMBER (A)

Received  
copy  
Mr. S. R. SINGH  
10/10/95

Recd on 11/11/95  
S. R. SINGH  
13.10.95

Part II and III destroyed  
in my presence on 21.11.95  
under the supervision of  
Section Officer ( ) as per  
order dated 4.9.1995  
Section Officer (Record)