

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

..... Date of order : 2.5.2000

O.A.NO. 357/96

K.C.Meena S/o Shri Gangadhar Meena, aged about 41 years, R/o 371 C, Bungalow No. 22 Quarters, Abu Road, at present employed on the post of Senior Teacher (ad hoc) in the office of Principal, Sr.Higher Secondary School, Abu Road.

.....Applicant.

VS.

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.

2. The President Railway Schools Cum Divisional Personnel Officer, Ajmer Division, Ajmer, Western Railway.

Shri Naval Kishore Verma, T.G.T., Railway Senior Higher Secondary School, Gangapurcity, Western RAILWAY, Distt.Sawaimadhopur.

.....Respondents.

.....
Mr.J.K.Kaushik, Counsel for the applicant.

Mr.R.K.Soni, Counsel for the respondents No. 1 and 2.

None present for the respondent No.3.

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CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

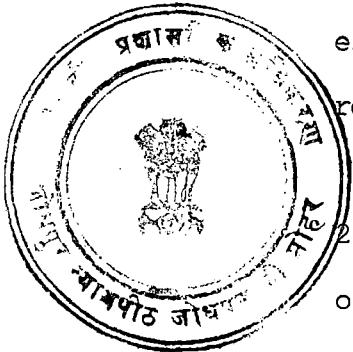
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN :

The Applicant has challenged the selection of respondent No. 3, vide Annex.A/6 dated 28.10.96 to the post of Senior Teacher (Civics) in the pay scale of Rs. 1640-2900 (RPS). It is the specific case of the applicant that as on the last date for making the application as per

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the Notification issued in that behalf, the respondent No. 3 was not eligible, therefore, the respondent No. 3 should not have been selected and promoted as against the applicant. Applicant's case is that he was eligible for promotion by selection as he fulfilled all the eligibility conditions. He further states that in the selection list, he is at Sl.no.2 and the respondent No. 3 is at Sl.No.1. According to the applicant, vide Notification dated 26.6.96, Annex.A/4, for purposes of promotion by selection to the post of Senior Teachers (Civics) two conditions were prescribed; (i) he should have passed Master Degree in second division in the relevant subject and (ii) he should possess the Degree or Diploma in the Education. He further states that respondent No. 3 did not pass ~~less~~ second class Master Degree as on the last date of application and if that is so, respondent No. 3 was not eligible for the post in question. Therefore, the selection of the respondent No. 3 is liable to be set aside.



2. The respondent No. 3 though served, remained exparte. The official respondents have filed their reply stating that as per the notification the private respondent was required to produce the Certificate of educational qualification at the time of Viva Voce and the respondent No. 3 has produced the same at the time of Viva Voce. It is further stated that the basic criteria for conducting the selection, was seniority and the respondent No. 3 was promoted as T.G.T. on regular basis in the pay scale of Rs. 1400-2600 on 1.7.83 whereas the applicant was promoted only on 20.7.90. Thus, Shri Verma was senior to the applicant and as such Shri Verma was rightly placed above the applicant in the panel. There is no merit in the application and it deserves to be dismissed.

3. Heard the learned counsel for the parties. The learned counsel for the applicant submits that for the purpose of selection for promotion according to the Notification Annex.A/4, the person must be

[Signature]

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eligible as on the last date of the application. He submitted that the last date of the application fixed vide Annex.A/4 was 19.7.96, As on that date, the respondent No. 3 Shri Naval Kishore Verma had not possessed this M.A. degree. The results of the M.A. degree were published vide Annex.A/5 only on 4.8.96. If that is so, the respondent No.3 passed the M.A.examination subsequent to the last date for submitting the application, and as such, as on the last date of filing of application, respondent No. 3 was not eligible since he did not possess a second class degree in M.A. Therefore, the official respondents have committed an error in selecting the respondent No.3

4. There is substance in the arguments of the learned counsel for the applicant. As per the consistent law declared by Hon'ble the Supreme Court, a person shall fulfil all the eligibility conditions as on the last date of filing the application in pursuance of the notification calling for the applications. Vide Annex.A/4, the last date for filing the applications was 19.7.96. In other words, respondent No.3 should have passed the qualification required under the notification as on 19.7.96, But, from the publication of the results of the examination in which the respondent No. 3 himself appeared, vide Annex.A/5, it is clear that the result was published on 4.8.96. If that is so, respondent No.3 did not possess this M.A. degree in second class as on 19.7.96. In this view of the matter, there is no option but for us/to hold that respondent No. 3 was not at all eligible to for ~~xxx~~ selection as on 19.7.96.

5. The learned counsel for the official respondents submitted that at any rate, respondent No. 3 acquired the requisite qualification as on the date ^{of} ~~Viva Voce~~.But, in our opinion, acquiring the degree subsequent to the last date fixed, cannot be taken into account and every aspirant shall be eligible as on the last date of the application fixed by the notification calling for such applications. From these

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facts, it is clear that respondent No.3, passing the M.A. examination subsequent to the last date of filing the application, cannot be taken into account for the purpose of determining his eligibility for the post.

and respondent No.3 was at No. 6.

6. It is brought to our notice that the applicant was at Sl.No.2 in the panel and if the selection of respondent No.3 is set aside, the next person in the panel would be the applicant, who is at Sl.No.2. In this view of the matter, the official respondents are bound to select the applicant on the post of Senior Teacher (Civits) for promotion. Hence, we pass the order as under :



The Application is allowed and the selection of the respondent No. 3 vide Annex.A/6 dated 28.10.96 is hereby set aside with a further direction to the respondents to select and promote the applicant to the post of Senior Teacher (Civics) in the pay scale of Rs. 1640-2900 (RPS) as per the Notification dated 26.6.96 (Annex.A/4), within a period of three months from the date of receipt of a copy of this order.

7. No orders as to cost.


(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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Life -

R(Copy)
or (615
302
B)
(B. Ichon)

R^{long}
R₂
(R₁, S_{long})

Part II and III destroyed
in my presence on 27/10/06
under the supervision of
Section Officer (J) as per
order dated 29/8/06

Section officer (Record)