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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 19.9.1996

OA No. 85/96

Man Singh Sharma & 4 Others ... Applicants.
v e r s u s
Union of India & Ors. ... Respondents.

Mr. Mr. P.V. calla,] .. Counsel for applicants.
Mr. Prithvi Raj Singh]

Mr. S.S. Vyas, Counsel for respondents No.1 & 2.
None present for other respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman.
Hon'ble Mr. S.C. Vaish, Member (A).

PER HON'BLE MR. S.C. VAISH:

Applicants Man Singh Sharma, Jamil Ahmed, R.K. Purohit, K.K. Sharma and Jitendra Kumar Dadhich are employees of the respondents - Northern Railway in the rank of T.T.I. They have come to this Tribunal against an order of the respondent Railways dated 7.2.1996 (A/1) by which the respondents cancelled the selection process made in the rank of Chief Ticket Inspector for which these five applicants were aspirants. They have further impugned an order dated 14.2.1996 (A/2) of the respondents by which, after cancellation of the selection, a fresh selection list was prepared by the respondents. The grounds taken by the applicants are that in the second eligibility list dated 14.2.96 (A/2) the respondents have included members of the Scheduled Castes and Tribes who had seniority fixed in the rank of T.T.I. not on the basis of length of service but on the basis of roster point.

2. We have heard Shri P.V. Calla, learned counsel for applicants and Shri S.S. Vyas, learned counsel for the respondents.

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A perusal of record shows that the cancellation of earlier selection (A/1) does not give any reasons and is reproduced below :-

"In continuation to this office letter No. 941E/TC/CTI/Selection/EiG/95/71 dated 05.5.95. It is informed that the above selection has been cancelled by competent authority."

3. The process of selection was carried on till the stage of written test and viva-voce test and at this point it was cancelled. The learned counsel for the respondents urged that the respondent Railways had received some complaints regarding irregularities in the process of selection and, after an enquiry, when it was established that irregularities had been committed in the process of selection, the cancellation was ordered. As the impugned order is not a speaking order, we had called the relevant confidential file in which this decision was taken. A perusal of this file by the Bench shows that there were major irregularities established in the process of selection and this led to cancellation of the process of selection. In these circumstances, it cannot be said that the decision of cancellation was either arbitrary or beyond the powers of the respondents. No vested right had been created in favour of the applicants just by participating in the process of selection till the stage of viva-voce.

4. Learned counsel for the respondents accepted that in preparing the eligibility list dated 14.2.96 (A/2), the respondents had calculated 13 vacancies, made a zone of consideration at 39 and called for selection the first 39 persons from the rank of T.T.I. The objection of the learned counsel for the applicants is that in this seniority list of T.T.I/Conductor, members of candidates belonging to Scheduled Castes and Tribes are included whose seniority in this list is not according to the length of service but according to the roster point. He further urged that taking a roster point seniority for promotion to the rank of T.T.I. is not in conformity with the law laid down by the Hon'ble Supreme Court in R.K. Sabharwal case reported in 1995 (1) SLR 791 and in the case of Ajeet Singh Januja reported in JT 1996 (2) SC 727.

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The facts pertaining to the preparation of the eligibility list (A/2) dated 14.2.1996 are not in dispute. We are in agreement with the arguments of learned counsel for the applicants that in the zone of consideration of 39, taking the roster point seniority of reservation, is not in conformity with the law laid down by the Hon'ble Supreme Court in the above two judgements.

5. In view of the circumstances discussed above, the application is partly allowed. The eligibility list (A/2) dated 14.2.96 is quashed with a direction to the respondents to prepare this eligibility list again in conformity with the law laid down by the Hon'ble Supreme Court in the above two judgements. No order as to costs.

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(S.C. VAISH)
Member (A)

GK
(GOPAL KRISHNA)
Vice Chairman

cvr.