CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O. A. Nos. 379 and 380 of 2012.

Date of decision:13.09.2012

CORAM :
HON'BLE MR. G. GEORGE PARACKEN JUDICIAL MEMBER
HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER

1. Mukesh Chander S/o Shri Ram Prasad aged 32 years resident of VPQ Kalyan Kot, Tehsil Sri Vijay Nagar, Distt. Sri Ganganagar (Raj) presently working as Trackman at SSE/PWAIY/SOG,North Western Railway, Bikaner.

2. Mahaveer Prasad S/o Shri Ghisa Ram aged 33 years resident of Block No. 48, Old Loco Railway Colony, Ward No. 19, Suratgarh, District Sri Ganganagar (Raj) presently working as Trackman at SSE/PWAY/SOG,North Western Railway, Bikaner.

3. Ram Vinay Kumar S/o Shri Ram Sewak Mahto aged 31 years R/o Q. No. T-22H, Old Loco Railway Colony, Ward No. 19, Suratgarh, Distt. Sri Ganganagar (Raj) presently working as Keyman at SSE/PWAY/SOG,North Western Railway, Bikaner.

4. Manish Kumar S/o Shri Jitendra Prasad aged 32 years resident of VPO Ramsinghpur, Gate No. C-35, Tehsil Anoopgarh, Distt. Sri Ganganagar (Raj) presently working as Gateman at SSE/PWAY/SOG,North Western Railway, Bikaner.

5. Than Singh S/o Shri Manohar Lal Meena aged 32 years, Resident of B – 174, Near Saras Dairy, Hanumangarh Junction, Distt. Hanumangarh, presently working as Gateman at SSE/PWAY/SOG,North Western Railway, Bikaner.

Applicants [In OA 379/2012]

[By Mr. Rajeshwar Vishnoi, Advocate]

Versus

1. The Union of India through the General Manager, North Western Railway, Jaipur.

2. The Senior Divisional Personnel Officer, North Western Railway, Bikaner.

3. The Divisional Railway Manager, North Western Railway, Bikaner.

4. The Assistant Personnel Officer, North Western Railway, Bikaner.

5. The Investigator, Room No. 21 of PF Branch at Divisional Office, North Western Railway, Bikaner for promotional examination, Limited Divisional Clerical Quota (LDCE), North Western Railway,Bikaner.

6. The Invigilator, Room No. 26 of PF Branch at Divisional Office, North Western Railway, Bikaner for promotional examination, Limited Divisional Clerical Quota (LDCE-, North Western Railway, Bikaner.

Respondents

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1. Ashutosh Sharma S/o Shri Vinod Sharma aged 34 years, Resident of 5/3 MP Colony, Lalgarh, District Bikaner, presently working as Trollyman at SSE/PWAY/LGH, North Western Railway, Bikaner.

2. Bhupendra Yadav S/o Ved Prakash Yadav, aged 31 years, Resident of 1015, Railway Colony, Bikaner, presently working as Trollyman at ADEN/BKN, North Western Railway, Bikaner.

3. Jagmal Singh S/o Shri Durga Ram aged 32 years, resident of B-174, Near Saras Dairy, Hanumangarh, presently working as Gateman at SSE/PWAY/SGNR, North Western Railway, Bikaner.

4. Narsilal S/o Shri Satya Naayan aged 33 years C/o Office PWI, Bhiwani (Haryana), presently working as Trackman at SSE/PWAY/BNW, North Western Railway, Bikaner.

Applicants [In OA 380/2012]

[By Mr. Rajeshwar Vishnoi, Advocate]

Versus

1. The Union of India through the General Manager, North Western Railway, Jaipur.
2. The Senior Divisional Personnel Officer, North Western Railway, Bikaner.
3. The Divisional Railway Manager, North Western Railway, Bikaner.
4. The Assistant Personnel Officer, North Western Railway, Bikaner.

Respondents

ORDER (Oral)

[PER HON'BLE MR. G. GEORGE PARACKEN]

Both these cases are identical and therefore they are disposed of by this common order.

2. The applicants have been working as Trollyman, Gateman, Trackman, Gangman, Gateman etc. They were candidates for the post of Senior Permanent Way Supervisor for which a limited departmental competitive examination was to be held. The respondent No. 2 vide its communication dated 29.07.2011 invited eligible candidates to apply for the said examination. Later on, by the

Annex.A/3 letter dated 16.12.2011, the said respondents also prepared an eligibility list of the candidates who can appear in the examinations. The names of all the applicants have been included in it. Subsequently, the examination was conducted on 22.07.2012 and all the applicants have appeared in the same. According to them, they were given the answer-sheets which contained the instructions in English language which is quite unfamiliar to them. However, after writing the examination they were quite hopeful and were waiting for favourable results. However, later on, they came to know that their answer sheets were not even checked for the reason that they have wrote their God's name in it. According to the respondents, it was against the instructions given to the candidate on the front page of the answer-sheets itself that the examinee should not write their names or give any clue of their identity anywhere in the answer-sheet. However, according to the applicants they wrote their Gods name in the answer-sheets only as a mark of their religious faith and the instructions on the answer sheet in English was not understood by them.

3. The applicants are, therefore, aggrieved by the non-checking of their answer-sheets and subsequent non-selection. They have therefore prayed for the following reliefs :

> **"A-** ***The record of the written examination for promotion on the post of Senior Permanent Ways Supervisor held on 22.7.2012 may kindly be called for.***
>
> ***B-*** ***By an appropriate order or direction, the impugned communication dated 30.8.2012 (Annex.A/1) may kindly be quashed and set aside and the respondents authorities may kindly be directed to consider the candidature of the applicants.***
>
> ***C-*** ***By an appropriate order or direction, the respondents authorities may kindly be directed to declare the result of the applicants after checking their answer books in accordance with law in kind supervision of this Hon'ble Tribunal.***
>
> ***D-*** ***Any other appropriate relief which this Hon'ble Tribunal may deem just and proper in the facts and***

circumstances of the case may kindly be passed in favour of the applicants.

E- In an alternate entire promotion process may kindly be quashed and be directed to conduct afresh in pursuance to communication dated 29.7.2012 Annex.-2.

F- Application of the applicants may kindly be allowed with costs."

4. We have heard the learned counsel for applicants Shri Rajeshwar Vishnoi. In our considered view, these O.As are frivolous. They are trying to project themselves as innocent and victims for their religious act of writing the names of their Gods in their answer-sheets. As serving employees, in our considered view, the act of the applicants are to be viewed not only as mere irregularity committed by them in the examination but as mis-conduct with mala-fide intention. Still the applicants have the audacity to approach this Tribunal with these OAs seeking a direction to stay the entire promotional process held in pursuance of the limited departmental examination held by the respondents and to direct the respondents to consider their candidature and declare their results after checking the answer-sheets.

5. In view of the above facts and circumstances of the case, we have no hesitation to dismiss these cases in limine. We also consider it appropriate to impose heavy cost upon the applicants but we desist from doing so only on the consideration that they are low-paid employees.

(B.K.Sinha)
Administrative Member

(G.George Paracken)
Judicial Member

Jrm