

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 80/2012 & 81/2012

Jodhpur this the 16th day of April, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Hon'ble Ms Meenakshi Hooja, Member (A)

1. Rajendra Kumar Meena S/o Shri Moola Ram Meena, Aged about 27 years, R/o T-56 A, Railway Colony, Luni Junction, Rajasthan.

The applicant is present holding the post of Signal Maintainer – II, North-Western Railway, H.Q. at Luni in the office of Senior Section Engineer, Jodhpur, Rajasthan.

.....Applicant in OA No. 80/2012

2. Manoj Kumar Sharma S/o Shri Ramakant Sharma, Aged about 36 years, R/o Railway Station, Nawa City, District Nagaur, Rajasthan.

The applicant is presently holding the post of Signal Maintainer – I, North – Western Railway, H.Q. at Nawa City in the office of Senior Section Engineer (Signal), Merta Road, Rajasthan.

.....Applicant in OA No. 81/2012



(Through Advocate Mr. Kuldeep Mathur)

Versus

1. The Union of India through the General Manager, North-Western Railway, H.A. at Jaipur.
2. The Divisional Railway Manager, North-Western Railway, Jodhpur.
3. Senior Divisional Personnel Officer, North-Western Railway, Jodhpur

(Through Advocate Mr Salil Trivedi)

..... Respondents

ORDER (Oral)**Per Justice Kailash Chandra Joshi, Member (J)**

These OAs are disposed off with a common order for the reasons that by way of these OAs, the applicants have challenged the legality of the same impugned order dated 10.02.2012 Annex. A/1 by which both the applicants even after completion of the training were not promoted to the post of Junior Engineer (Signal) due to cancellation of entire process of selection.

2. The short facts of both the OAs are that applicants, Shri Rajendra Kumar Meena and Manoj Kumar Sharma appeared in the examination for the written test in response to the notification issued by the respondents for selection to the post of Junior Engineer (JE) II (Signal) against 20% intermediate quota. The applicants being eligible appeared in the selection process and their names were placed in the original panel prepared by the respondents. The applicants thereafter have undergone the requisite training held at Indian Railway Institute of Signal Engineering, Secunderabad for the required period. Thereafter the respondent No. 3 has cancelled the entire panel declared on 15.04.2011 vide order Annexure A/1 dated 10.02.2012 on the ground that certain irregularities were found in the said selection process without mentioning the details of such irregularities. Being aggrieved by the order Annexure A/1, the applicants have filed these OAs challenging the legality of Annex. A/1. In both the applications the defence of the respondent department is common that some



irregularities were found in the process of the examination and the marks calculated were contrary to the circular issued by the Railway Board and the same were not followed while evaluating the marks in the written examination. In the evaluation of the copies one Shri Parmesh Kumar was also placed in the provisional panel of JE (Signal) who obtained 59 (49 after recheck) out of 100 marks in first paper and 61 out of 100 in second paper and evaluator of the copies adjudged his total marks as 60 out of 100 and as such Railway Board instructions under R.B.E. No. 144/2007 were not followed by the examiner; because in each paper 60% marks are required to be obtained separately. However, regarding present applicants no irregularities were found in the evaluation process of the answer sheet but to have the thorough fairness in the examination process and on the recommendation of the selection committee the respondent No. 3 ordered to cancel the entire process of examination and selection.



3. By way of rejoinder applicants have reiterated the same facts as averred in the application and further annexed the information received under RTI which includes the report of the selection committee which refers to only one single irregularity regarding evaluation of the answer sheet of Parmesh Kumar where aggregate of marks obtained by Shri Parvesh Kumar do not come to 60 as per instructions under R.B.E. No. 144 /2007.

4. Heard both the parties. Counsel for the applicant contended that even the reply and the report of the selection committee show that irregularity was only committed in evaluation of answer sheet of Shri Parmesh Kumar; and that due to certain mistake total marks obtained by Shri Parmesh Kumar was 49 instead of 59 but due to mistake/lapse, the marks entered on summary sheet were 59 instead of 49 and Shri Parmesh Kumar was adjudged as suitable candidate while ignoring the instructions contained in R.B.E. circular No. 144/2007, and no other irregularity was found with reference to the entire process of selection. Counsel for the applicant contended that in the recruitment process where it is possible to weed out the beneficiaries of irregularity, cancellation of enbloc process, cannot be said to be a legal or logical proposition and there cannot be any justification for the same and where selection is not vitiated in any manner and he further contended that selection of the both the candidates cannot be said to be vitiated in any manner and they are not beneficiary of any irregularity, fraud or mal-practice. Therefore, cancellation of selection of these two applicants is irregular and illegal.



5. The counsel for the applicant in support of his arguments relied upon the judgment of Hon'ble Apex Court in UOI & Ors vs. Rajesh P.U., Puthuvalnikathu and Annr. reported in 2003 (7) SCC P. 285 by which the appeal filed by UOI in similar matter was dismissed and it was upheld by the Hon'ble Supreme Court that where it was possible for the authority to weed out the beneficiary of irregularities or illegalities, there was no justification to deny

appointment to those selected candidates whose selection was not vitiated in any manner and the entire process of selection as saved by the High Court, was upheld by the Hon'ble Supreme Court.

6. On query the counsel for the respondents referred to the fact of the non-availability of ACR of Shri Rajendra Meena as mentioned in the selection committee report but he fairly admitted that some ACRs are written by higher authorities of personnel upto some grades and for the rest of the officials the working report is considered for promotion. In the present case also in the selection process working report was considered as per procedure and it appears from the report itself that the vigilance committee did not find any irregularity in working report of Shri Rajendra Kumar Meena and ACR of Manoj Kumar Sharma. The counsel for the respondents contended that to have a fair approach towards entire process the examination or selection process was cancelled.



7. In our considered view we see no reason to cancel the entire selection process in respect of these applicants because they are not beneficiaries of any irregularity in the evaluation process of the answer sheet and even as per Selection committee report on the basis of ACRs and working reports they would have been selected. Accordingly, in the light of the judgment cited by the counsel for the applicants we have no hesitation in quashing annexure A/1 by which the entire process of examination was cancelled because in

the present circumstances cancellation of entire process was not warranted and annex. A/1 in both the OAs suffers from irregularity and illegality in view of the judgment of the Hon'ble Apex Court cited by the counsel for the applicant. So far as Shri Parmesh Kumar is concerned he is not before us but whatever process has been initiated for the cancellation of selection of Shri Parmesh Kumar cannot be said to be illegal or irregular in view of the report of the selection committee.

8. In view of the discussions hereinabove made, both the OAs are allowed and Annexure A/1 qua both the applicants in OA No. 80/2012 and 81/2012 are quashed and respondent department is directed to act further upon the selection process qua applicants.



COMPARED &
CHECKED

Sd
(Meenakshi Hooja)
Administrative Member

Sd
(Justice K.C. Joshi)
Judicial Member

SS

CERTIFIED TRUE COPY

Dated 25.4.2013

D.R. Sharma

मध्य प्रदेश (प्रशा.)
Section Officer (Judl.)
मध्य प्रदेश प्रशासनिक न्यायाधीश
Central Administrative Tribunal
मध्य प्रदेश, न्यायाधीश
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