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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 155/2012

Jodhpur this the 16th day of September, 2013.

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Rohitash Kanwar Meena S/o Shri Narayan Lal, aged about 37 years, R/o T-4-J, Traffic Colony, Railway Station, Degana, District Nagaur, Rajasthan.

The applicant is present holding the post of Telecom Maintainer Grade-I in the office of Senior Divisional Signal & Telecom Engineer, North-Western Railway, Jodhpur, Rajasthan.

.....Applicant

(Through Advocate Mr N.S. Mathur proxy for Mr Kuldeep Mathur)

Versus

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

(Through Adv. Mr Aditya Singhi & Manoj Bhandari)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

By way of this application, Shri Rohitash Kanwar Meena, the applicant has challenged the legality of the order Annex. A/1 by which written examination held for the post of Jr. Engineer (Tele) was cancelled.

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2. The short facts of the case are that the respondents-department issued a eligibility list of eligible Master Craft Man for appearing in the selections for the post of Junior Engineer/Telecom against 30% ranker quota and conducted written examination for promotion on 19.06.2011. The result of the said examination was declared on 19.12.2011. The respondent No. 3 vide order Annex. A/1 dated 05.03.2012 has cancelled the entire process of written examination without assigning any reason. Aggrieved by impugned order Annex. A/1, the applicant has prayed for the following relief (s) :

1. **“That the impugned order dated 05.03.2012 (Annex. A/1) may be declared illegal and the same may be quashed.**
2. **That the respondents may be directed to complete the selections for promotion to the post of JE-II/Telecom against promotee quota by treating the result of written examination declared on 19.12.2011 as final.**
3. **That the cost of the application be quantified to the applicant from the respondents.”**

3. The respondent-department by way of reply has averred that as per the RBE No. 31/05 dated 22.02.2005, only Sr. Technicians are eligible for promotion to Jr Engineer, as such only MCM/s as available at that time on roll were called for appearing in the selection of JE/Tele. Due to refusal submitted by 6 MCM/TCM/WTM another eligibility list for appearing in the written test fixed for 12.03.2011 was issued vide letter dated 11.02.2011 and copy of the same has been annexed as R/2, wherein, the name of the applicant along with other senior most Technician Grade I were included in the eligibility list as per

Railway Board's instructions under RB No. 31/054. It has been averred in the reply that certain MCM/TCM had submitted their refusals and so a fresh eligibility list of 12 employees was issued on 11.02.2011 for asking them to appear in the written test to be held against the promottee quota. It has been averred in the reply that to conduct or not to conduct a written test of any selection, is the sole domain of the employer and if, there is some irregularity or any cogent reason to cancel the selection or written test whatsoever, the same can very well be done by the respondents and in the present case due to some irregularity in the selection process the entire process of written examination was cancelled as the eligibility was wrongly announced for appearing in the written test.

4. Ample opportunity has been provided to the counsel for the applicant to file rejoinder to the reply but the same has not been filed. Therefore, right to file rejoinder is closed.

5. Counsel for the applicant contended that without assigning any reason, the respondent-department should not have cancelled the process of written examination. Counsel for the applicant further contended that if there was some irregularity there was no need to cancel the entire process.

6. Per contra counsel for the respondents contended that Annex. A/1 clearly refers to some irregularities in the process of examination, therefore, it cannot be said that it has been cancelled without any reason and respondents, when they realized that there were irregularities, they cancelled the selection process in accordance with law.

7. It is settled principle of law that mere finding place in the eligibility list does not create any right in favour of the applicant and on account of irregularity, an employer can cancel the examination. Further, it has been averred by the respondent-department, in the reply itself, that after cancellation of the aforesaid selection process, another selection process has been initiated and the applicant has been promoted to the post of Jr Engineer against the promottee quota after holding proper selection on 07.09.2012.

8. Considered rival contentions of the parties. In view of the aforesaid discussion and facts, no case is made out to quash order Annex. A/1. Therefore, OA lacks in merit and deserves to be dismissed. Accordingly, OA is dismissed and there shall be no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER