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CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.OA 750 of 97

Date of order : 8.1.2004

Present : Hon'ble Mr.Justice B.Panigrahi. Vice-Chairman  
Hon'ble Mr.N.D.Dayal, Administrative Member

M.N.ROY & ORS.

VS

UNION OF INDIA & ORS.

For the appliants : Ms.K.Banerjee, counsel

For the respondents: Mr.S.Choudhury, counsel

O R D E R

Justice B.Panigrahi. VC

In this case the applicants have challenged the memo dated 21.3.97 issued by the DRM(P), S.E.Rly.,Kharagpur whereby the names of 7 candidates were recommended by the Selection Board and approved by the ADRM for the post of P.W.Mistry/Supervisor, P.Way in the scale of Rs.1400-2300/-. The applicants although were senior to the other persons who were promoted, yet their names had been omitted in the select list. The applicant No.1 worked as a casual semi-skilled Khalasi on and from 16.2.74 and thereafter joined regular service as gangman under P.W.I., Tamluk on 13.10.74. He was also confirmed in the said post of Gangman. The applicant No.1 in the meanwhile was promoted to the post of Sr.Gangman in the scale of Rs.800-1150/-. He was holding the post of upgraded Gangman in the scale of Rs.825-1200/-.

2. Similarly the applicant No.2 was working as a Gangman under Sr.Section Engineer, P.W., Guladi and was confirmed as such on 8.10.82. He too was promoted to the post of Sr.Gangman in the scale of Rs.800-1150/- and has been holding the post of upgraded Gangman in the scale of Rs.825-1200/-.

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3. The applicant No. 3 was working as gangman under the P.W.I., Guladi. He was regularised as gangman w.e.f. 3.4.84. The applicant No.3 was also promoted to the post of Sr.Gangman and has been holding it as such w.e.f. 10.7.91.

4. The DRM(P), Kharagpur appears to have taken a decision to fill up in the Open Line of Civil Engineer in Kharagpur Division, the post of P.W.Mistry. The applicants along with others had appeared in the selection test but unfortunately the private respondents were preferred to the applicants. Therefore the applicants have questioned the conduct of the members of the Selection Board in which they have purportedly given less marks to these applicants compared to the other selected candidates.

5. Ms.K.Banerjee, Id. counsel appearing for the applicants has contended with vehemence that although these applicants faired better than the other selected candidates yet the Members of Selection Board in a partision manner acted only with a view to exclude the applicants for the post of P.W.Mistry.

6. It has been further argued that even the selected candidates have not rendered so many years of service as that of the applicants, yet the matter of experience was not considered and the private respondents were preferred to the applicants.

7. Mr.Choudhury, Id. counsel appearing for the official respondents in course of hearing has drawn our attention to the merit list prepared by the respondents. In the merit list the private respondents who were given promotion patently have secured more marks even in the written test, let alone the viva-voce. Therefore in such background the stand taken by the applicants cannot be legitimate. Secondly, the applicants had already appeared before the Selection test and after they became unsuccessful they shall not be permitted to turn round and say that the selection test was mala fide.

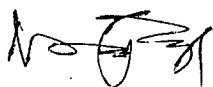
8. From the stand taken by the applicants it appears that their case is that they answered all the questions better than the candidates who were selected. It is not for the Tribunal to go into

such details nor the Tribunal is an expert body so that it can evaluate the answers allegedly given by the candidates namely the applicants.

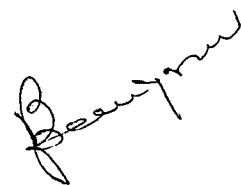
9. Considering the case of the applicants we do not find any merit but however, it appears from the submission advanced by Mr.Choudhury that in the meanwhile there is another selection test for P.W.Mistry. Of course Mr.Choudhury has submitted that options were called for which was refuted by Ms.Banerjee. In that view of the matter it is unlikely that the applicants would have avoided appearing in the selection test which was conducted by the respondents.

10. In that view of the matter we direct the respondent No.3 to conduct a special selection test for the post of P.W.Mistry within 3 months from the date of communication of the order and consider the suitability of these applicants along with the other candidates who have already appeared in the said selection test. Till such selection test is over, the respondents shall not declare the result of the other candidates who have appeared in the selection test. It is open to the respondent No.3 to take the approval of his higher authorities for conducting such examination.

11. With the above observation the OA is disposed of. No order as to costs.



MEMBER(A)



VICE-CHAIRMAN

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