

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 1117/1997

Date of order: 29.07.2003

Present : Hon'ble Mr. B.P. Singh, Administrative Member.
Hon'ble Mr. N. Prusty, Judicial Member.

Md. Ibrail Alam and 12 Ors.

- v e r s u s -

1. Union of India, service through
The General Manager, Eastern Railway,
17, Netaji Subhas Road,
Calcutta-1.
2. The Chief Personnel Officer,
Eastern Railway, 17, N.S. Road,
Calcutta-700 001.
3. The Chief Catering Service Manager,
Eastern Railway, 3 No. Koilaghat Street,
Calcutta-1.

...Respondents


For the applicants : Sri B. Mukherjee, counsel.
For the respondents : Sri R.K. De, counsel.

O R D E R

B.P. Singh, AM

This application has been filed by thirteen applicants against action on the part of the respondent authorities not to allow them to appear in the screening test.

2. The applicants made their submission in different paragraphs in the O.A. which are as follows:-

 The applicants by giving representation requesting the respondents that, the applicants shall have to be allowed to be called for in the screening test for absorption as casual labour alike the applicants in O.A. No. 94 of 94 and O.A. No. 690 of 1994 decided on 29.7.94 and 6.2.95 respectively. But, the applicants having not been called for to appear in the screening test, they have been come before this Hon'ble Tribunal for redressal of their grievances.



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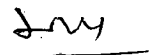
4.3. Your applicants state that the applicants were called for the screening test individually vide letter No.E 1025/Catg./Pond/Casual Labour dated 4.9.1986 issued by the Chief Personnel Officer, Eastern Railway.

4.12. But the applicants having not been called for to appear in the screening test because aggrieved by and dissatisfied with the said deliberate in-action of the respondents, gave representation jointly to allow them to appear in the screening test and to publish the result of the screening test along with them for absorption."

The statements made in the above paragraphs are contradictory. From the enclosure A/1, it is clear that the applicants were called for screening test to be held on 20.9.86 at the CPO's office, Fairlie Place, Calcutta. They were directed to appear before the said screening test along with all original certificates/documents pertaining to the educational qualification, age, caste etc. It has also been stated therein that in case they failed to appear on the appointed date and time, no further chance would be given to them under any circumstances. From the statement as well as submission made by the applicant, it appears that inspite of the said notice for screening test, screening was not held in respect of the applicant and, therefore, they made subsequent representation which was not replied to. The applicants also submitted that in the meantime similarly placed persons approached the Hon'ble Tribunal by filing O.A. No. 94/1994 which was disposed of by an order dated 29.7.94 and O.A. No. 690/1994 which was disposed of on 6.2.1995. In both these O.As, the Tribunal directed the respondent authorities to consider the representations of the applicants and grant the reliefs as prayed for by them in the above two O.As.

3. Ld. counsel for the applicants submits that if similar order be given to the present applicants, they will be satisfied.

4. Sri B. Mukherjee, Id. counsel appears for the applicants and Sri R.K. De, Id. counsel appears for the respondents. Reply has been filed in this case. But no rejoinder to the reply has been filed so far. We have heard Id. counsels for both parties and have gone through the



O.A. and the reply.

5; Ld. counsel for the applicants submits that the applicants were directed to appear for screening test, but the screening test was not held and, therefore, they were deprived of getting chance for appearing in the screening test. Hence they made representation to the respondent authorities. But despite that, nothing was done. In the meantime, some more similarly placed persons approached the Tribunal for redressal of their grievances. The Tribunal passed order dated 29.7.94 in O.A. No. 94/1994 and order dated 6.2.95 in O.A. 690/1994. The Id. counsel submits that in both the aforesaid O.As, the Tribunal directed the respondent authorities for consideration of the representation of the applicants. The Id. counsel further submits that since the present applicants are similarly placed, therefore, similar order should be passed in this case also to meet the end of justice. If this is done, his clients will be satisfied.

6. Ld. counsel for the respondents drew our attention to the various paragraphs of the reply especially paragraph Nos. 16 and 17. Ld. counsel submits that no doubt screening test for casual labour was fixed on 20.9.86, but certain allegations were made against the process of screening test and the Vigilance Department intervened to the said process of screening test. On the recommendation of the Vigilance department, the said screening test was dropped. But so far as the present applicants are concerned, the Id. counsel submits that they were never called for screening test and the names of the applicants which appeared in Annexure-A/1 to the O.A. are fraudulent act exercised at the material time by some unscrupulous elements by using the cyclostyled form of the letter bearing the said number and said signature inscribing on it with the name of the fictitious elements and thus the applicants were never called to appear in the said screening test in 1987. Therefore, the question of their appearing in the screening test does not arise.



7. The Id. counsel has categorically submitted that the applicants were by no means entitled to be called for the screening test as the applicants are fake elements and they did not appear to be working at the material time under the respondent authorities.

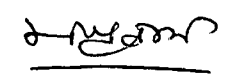
8. Ld. counsel for the respondents has thus categorically submitted that the applicants are not genuine and, therefore, the question of any grant of relief to them does not arise. He has also relied on the two decisions cited by him which we do not find ^emuch relevant in this case.

9. In our view, this matter can be disposed of keeping in view the submissions made ^{by} both the parties in the O.A. and reply to the O.A. We also find that the categorical statement made by the Id. counsel for the respondent authorities in their reply has not been challenged by the applicant by way of filing the rejoinder and furthermore, the applicant have also taken different stand through their O.A. while stating the fact. As such the stand taken by the applicants in the O.A. is very much suspicious and hence cannot be accepted. We have reason to go by the categorical statement made in the written reply regarding genuineness of candidature of the applicants. They were never called for in the screening test as they never worked under the respondent authorities at the material time.

10. So far as the order dated 29.7.94 passed in O.A. No. 94/1994 and order dated 6.2.95 passed in O.A. No. 690/1994 are concerned, they are not applicable to the present applicants as ~~there~~ were no challenge to the genuineness of the applicants in both the O.As and, therefore, we are of the view that the applicants are not entitled and hence the submission of the Id. counsel for the applicant for similar order cannot be accepted.

11. In view of the above submission, we do not find any merit in this O.A. and dismiss the application without passing any order as to costs.


Member (J)


Member (A)