

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. U.A. 1192 of 1997
CPC 168/1997
M.A. 470/1997

Present : Hon'ble Mr.D.Purkayastha, Judicial Member.

Hon'ble Mr.G.S.Maingi, Administrative Member.

RAGHUNATH BHUNIA

... Applicant

Vs.

1. Union of India through the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi-110 001.
2. The General Manager, Chittaranjan Loco-
motive Works, Chittaranjan,
Dist.Burdwan.
3. The Chief Personnel Officer, CLW
Chittaranjan, Dist.Burdwan.

... Respondents

For the applicant : Mr.K.Sarkar, counsel.

For the respondents: Mr.S.Bose, counsel.
Mrs.Uma Sanyal, counsel.

Heard on : 28.9.1999

Order on : 29.11.1999

ORDER

G.S.Maingi, A.M.

This O.A. has been filed by Shri Raghunath Bhunia, working as Khalasi Helper, in the Office of Laboratory/Steel Foundry Chittaranjan Locomotive Works, Chittaranjan. The applicant in his U.A. has stated as under -

That he had applied for the post of Primary Teacher (B.M./E.M.), for which he was issued an admit card dated 7.10.1997 and his Roll No. was G-1087. A written examination was to be conducted on 25.10.1997 and the result of the written examination was to be pasted on the notice board of the CLW and on 26.10.1997 a viva-voce test was to be held. The applicant

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submits he did not follow as to how within a few hours of conducting the written test, the successful candidates could be taken up for the viva-voce test and that created a suspicion about the process of selection. The applicant further states that although he was a departmental candidate, he was not given the appointment as a departmental candidate and no consideration was shown to him.

2. The instant O.A. of the applicant is quite confusing in that he is mixing the details of another application bearing No. O.A.503 of 1997 with the present O.A. The case agitated in O.A. 503 of 1997 relates to the purely ad-hoc appointment of the applicant and from which his services were terminated, but that cannot influence the judgment in this case. Therefore, there is no necessity to mix up the submissions made in both the applications. As regards the present O.A., the applicant apprehends, as per paragraph 4.11 of this O.A., that gross illegality would be committed in respect of appointment of Primary Teacher (B.M.) which was scheduled to be held on 25.10.1997 and 26.10.1997. The applicant states that it was purely a case of malpractice and for the ends of justice and fair play, this Hon'ble Tribunal should interfere. He has further contended that it is not possible within 24 hours for the respondents to conduct the written test which was to be held at 1400 Hrs. on 25.10.1997, publish the result at 10 A.M. on 26.10.1997 and thereafter conduct the viva-voce test. The applicant had received the admit card on 7.10.1997 by post and by then the office of the respondents had closed already and the applicant was unable to give any representation to the concerned respondent. The applicant avers that by that the respondents did their job illegally and maliciously. He has claimed the following reliefs in his present application -

To direct the respondents to consider the case of the applicant in the post of Primary Teacher (B.M./E.M.), because he has got sufficient knowledge of experience about teaching, and for passing a direction upon them not to hold the examination

scheduled for 25.10.1997 and 26.10.1997, as per the admit card. The applicant has also prayed for directing the respondents to keep one post vacant for him because of the pendency of D.A.503 of 1997 before this Tribunal.

3. The respondents have filed a reply to the following effect-

That an employment notice for recruitment of Primary Teachers in Hindi/Bengali/English Medium for the Railway Schools was issued and the applicant who was already serving as Khalasi in the C.L.W., applied for the said post in pursuance of the employment notice for category no.8. Before the written and viva-voce tests were conducted, an interim order was obtained on an ex-parte motion before the Vacation Bench and the said Bench directed not to publish the result of the written test without the leave of this Tribunal. As such, the viva-voce test to be held on 26.10.1997 was also restrained. The respondents state that the question papers were handwritten and no typographical printing was done in respect of these with a view to ensure the secrecy of the question papers and there is no bar in doing that as per the extant Railway rules. With a view to take speedy action, all the questions were objective type and no descriptive questions were asked. To expedite the selection process, as many as 50 qualified experienced evaluators whose names were approved by the competent authority, were engaged to evaluate the answer scripts of the objective type questions, who were supplied with a ready made answer sheet containing the right answers of each question as set out therein. On the basis of the said ready made answer sheet, each answer script required only 3 to 5 Mins. for evaluation by the Evaluating Committee. The purpose of holding the viva-voce on the very next day was to minimise the chance of leakage of question papers, expedite the selection and also avoid delay of communication of result through post and to fill up the post of Teachers immediately against the vacant posts and also to avoid any inconvenience to the candidates to come again to Duttaranjan to appear in the viva-voce test.

4. When this application was moved before the Vacation Bench on 13.10.1997, he obtained the order which stated that the respondents are allowed to hold the written test on 15.10.1997, as per the instructions contained in annexure 'A/1' to the application, but the result of the written test shall not be published by the respondents without prior permission of this Tribunal. The respondents were further restrained from holding the viva-voce test to be held on 26.10.1997. Subsequently, the respondents moved this Tribunal for vacation of the interim order dated 13.10.1997. This Tribunal modified the interim order to the effect that while the respondents shall have the liberty to go ahead with holding of the viva-voce test on the basis of the written examination held on 25.10.1997, they shall not publish the final result of selection without leave from the Court. Liberty was also granted to both the parties to mention the matter for early hearing. In the meantime, the applicant also filed a contempt petition being no.168/1997 against the respondents to which a reply was filed by the respondents.

5. The respondents were directed to produce the question papers and the relevant records in the case which have been duly produced by the respondents.


6. We have examined the records and have not opened the sealed question papers, but it has been clarified by the respondents that the question papers were of objective type and that they had engaged a large number of evaluators to process the question papers. The records also show that 50 evaluators were appointed to evaluate the question papers. There is no doubt that when the question papers were of objective type, it should not take more than 2 to 3 Mins. to evaluate ^{each of} the answer scripts. The usual practice is that the question paper is set by the Examiners and they also submit the model answer papers to this and the evaluators can assess the answer books on the basis of the model answers. 50 Evaluators were put on the job and their addresses have been placed on record. We have found no irregularity in the same. The respondents in their written reply have stated

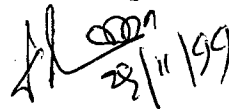
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and rightly so, that although the written examination was to be held on the 25th of October, 1997 and the viva-voce on 26th of October, 1997, the applicant had filed this O.A. 1192 of 1997 on 13.10.1997 as an unlisted motion, moving the case ex parte, i.e. before the examination being conducted. This shows that the applicant was not confident of himself and wanted to stall the proceedings regarding the conducting of the examination. In our view he has succeeded to quite some extent as the matter has been stalled for a period of more than 2 years by now. The applicant's contention is that as per the Railway Board's orders, there should be some time gap between the written examination and the viva-voce test. While this cannot be disputed, but these are only instructions which have no statutory force behind them. Each situation dictates its necessity and it cannot be said that the higher officers cannot modify it according to its need and exigencies of the situation. What appears to have offset the applicant is that he was removed from the ad-hoc appointment as a Teacher and when he appeared for the same earlier, he could not qualify. In fact there is no justification in holding up the matter any further and we do not find any substance in the contempt petition also which in any case, in our view, cannot be entertained.

7. In view of the above observations it is ordered that the respondents can go ahead with the process of selection in question. Keeping all the facts in view as discussed above, we do not find any merit in the instant O.A. and the same as well as the contempt petition are hereby dismissed. Interim order, if any, stands vacated. MA 470/1997 is also disposed of.

8. This appears to be a fit case for awarding costs. The applicant is directed to pay costs of Rs.500/- within a fortnight from the date of this order, to the respondents for having wasted so much of time of this Tribunal by filing this frivolous application.


(G.S. Maingi)
Administrative Member


(D. Purkayastha)
Judicial Member