

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A.1408 of 1997

Date of Order: 15.12.97.

Present: Hon'ble Mr.Justice S.N.Mallick, Vice-Chairman.

Hon'ble Mr.M.S.Mukherjee, Administrative Member.

NIMAI CH. DAS

-VS-

UNION OF INDIA & ORS.

For the petitioner: Mr.B.C.Sinha, counsel/
Mr.P.K.Ghosh, counsel.

For the respondents: Mr.P.Chatterjee, counsel.

Heard on: 15.12.97.

O R D E R

S.N.Mallick, V.C.

We have heard Mr.Sinha, 1d.counsel appearing for the petitioner and Mr.Chatterjee, 1d.counsel appearing for the respondents. On consent of both the parties, the application is taken up for final disposal at the stage of admission.

The applicant's main grievance is against the selection test proposed to be held on 16.12.97 on the basis of an Wireless Message dt.1.12.97 issued by the Chief Personnel Officer, S.E.Railway, Garden Reach vide Annexure-A.1 at page 6 of the application. Mr.Sinha's main thrust against the proposed written test is on the basis of the Establishment Serial no.42 of 84 dt.22.3.84 and the Estt.Serial no.207/89 dated 11.9.89 (vide Annexure A.2 and A.4 respectively). The Estt.Order 42/84 requires that while stipulating the names of eligible candidates either for selection or for non-selection post, it is necessary to declare actual size

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of the panel for selection post or the selected list for non-selection post proposed to be made indicating the number of UR, SC and ST so that all concerned are aware of the same. The Estt. Serial 207/89 dt. 4.1.9.89/ lays down that clear 30 days' ~~time~~ stand is to be given to the candidates concerned in respect of holding the original written examination. Mr. Sinha, has also ~~modified~~ emphasised that in the said wireless message, although the applicant's name appears at Serial no. 48, the proposed list does not reflect the real position for zone of consideration in the context of the revised seniority list made or to be made on the basis of the latest Supreme Court judgement.

Mr. Chatterjee, 1st. counsel appearing for the respondents, have conceded that the notice as per wireless message at Annexure-A.1 violates the Estt. serial at 42/84 and the other Estt. serial at 207/89. Mr. Chatterjee further contends that in the proposed list there is ambiguity in the matter of reflection for zone of consideration of revised seniority.

Under the circumstances, we are of the view that the present application shall be allowed and the notice given as per Annexure-A.1 should be set aside and the proposed examination shall stand cancelled. Accordingly, we allow the application at the admission stage and we cancel the notice as per Annexure-A.1 to the petition and the proposed examination to be held on 16.12.97 stands cancelled. The respondents will be at liberty to hold fresh examination after compliance of all relevant rules in this regard. No order as to costs.

M.S. Mukherjee
(M. S. Mukherjee)
Member(A).

S.N. Mallick
(S. N. Mallick)
Vice-Chairman.