

In The Central Administrative Tribunal
Calcutta Bench

OA.369 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

- 1) Tarak Nath Sinha, son of late Siddheswar Sinha, residing at Rly Qrts. No.27/T/D/, Lalgola, Murshidabad.
- 2) Samar Kumar Sen, son of late Sudhir Kumar Sen, residing at Purnagang, P.O. Majdia, Nadia.
- 3) Ayodhya Prasad Mishra, son of late Uma Sankara Mishra, residing at Qtr. No.22/E/T, P.O. Barrackpore, Dist-24 Parganas.
- 4) Ram Narayan Ahir, son of late Mathura Ahir, residing at Rly.Qrt. No.1/70/F, Chitpur Rly Colony, Calcutta-2.
- 5) Ram Abatar Paswan, son of late S. Paswan, residing at H.No.23, R.B.Rd, P.O. Finga Para, Dist:24-Parganas

.... Applicants

- Versus -

- 1) Union of India, service through the Secretary, M/o Railway, 12 No. Janpath, Rail Bhawan, N.Delhi.
- 2) The General Manager, Eastern Railway, 17, N.S. Road, Calcutta-1.
- 3) The Divisional Railway Manager, Eastern Railway, Sealdah Division, Kaiser Street, Calcutta-14.
- 4) The Sr. Divn. Personnel Officer, E.Rly, Sealdah Divn., Calcutta-14.
- 5) The Sr. Divn. Operation Manager, E.Rly., Sealdah, Calcutta-14.
- 6) The Station Manager, Barrackpore, Railway Station 24-Parganas.
- 7) The Station Manager, Lalgola Rly, Station, Murshidabad.
- 8) The Station Manager, Ranaghat, Nadia.
- 9) The Chief Yard Master, Chitpur Yard, Chitpur, Calcutta.
- 10) The Station Manager, Santoshpur, P.O. Maheshtala, Dist: 24-Parganas.

... Respondents

For the Applicants : Mr. B.N. Roy, Advocate

For the Respondents : Ms. K. Banerjee, Advocate

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Heard on : 12-06-2000

Date of Order : 29.6.2000

ORDER

G.S. MAINGI, AM

This application, under Section 19 of the Administrative Tribunals Act, 1985, has been filed by Shri T.N. Sinha and four others who challenged the Memorandum dated 13.3.1997 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Sealdah regarding selection for the post of switchman. It is observed from the rejoinder submitted by the applicants that four of the five applicants have already been selected for the post of switchman after conducting written test for the second time and have joined and working in the said post. It is only the main applicant Shri T.N. Sinha, applicant No.1 in this O.A. although passed the written test and was called for interview but ultimately he was not selected as he did not qualify in the interview. *Signature*

2. The brief facts of the case are that the posts of Switchmen were available with the Department and that two procedures were followed for selection to the said posts against 50% of the vacancies meant for Linesman/Cabinman/Pointsman having educational qualification of Class-VIII Standard and other category of 50% of posts went to Group 'C' & 'B' staff of the Sealdah Division who should have educational qualification of Matriculation Standard. This application relates to the category of Linesman/Cabinman/Pointsman. After passing in the written examination as well as in the viva-voce test they were selected and were booked for promotional training for Switchman at Zonal Training Centre at Dhanbad. Accordingly, on the appointed date the applicants attended the training Centre at Dhanbad but it was informed that the earlier selection has been cancelled by the competent authority. As a result they came back and returned to their respective working place. The applicants filed this application before this Tribunal on 3-4-1997 and this Tribunal issued interim order. The process of selection was conducted again and out of 5 applicants Shri R.N. Ahir did not appear in the test for *Signature*

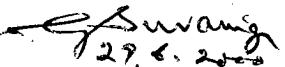
the second time and all the other four applicants appeared in the test while three were selected in the written examination and viva-
voce test. But Shri T.N. Sinha who qualified in the written examination and appeared in the Viva-Voce test, but he was not selected. This shows highhandedness on the part of the respondents.

3. Reply has been filed ^{by} Shri Tapen Kumar Mitra, Sr. Divisional Personnel Officer. But the reply does not clarify at all that on whose behalf it has been given by him as he is not one of the respondents. The respondents are the Union of India, General Manager, Eastern Railway, Divisional Railway Manager, Eastern Railway, Sealdah Division. Even he does not state whether the reply has been filed on behalf of the main three respondents and whether he has been authorised to do so. The reply was filed in July, 1997. It is stated that the application of the applicants is barred by limitation. But no reason has been shown in this regard. It is their ^{exam} duties to satisfy the Tribunal in their reply that how it is barred by limitation. We, therefore, ^{exam} disagree the contention of the Sr. Divisional Personnel Officer. The reply shows that the earlier selection was cancelled by the competent authority for procedural lacuna but it has not been explained as to who is the competent authority. No light was thrown in this regard at the time of hearing. In paragraph 19 of the reply it is stated by the respondents that the application of the applicants is completely misconceived, misleading, motivated and not tenable in the eye of law and as such the respondents reserve the right to make submission on each of the said grounds at the time of hearing through their ^{Advocate} ^{Advocate}. During the course of hearing the ^{Advocate} ^{Advocate} for the respondents did not throw any light on it. After hearing, experienced ^{Advocate} Ms. K. Banerjee for the respondents submitted a letter of Eastern Railway dated 16.6.2000 where it was explained that as to why the competent authority had cancelled the selection for the post of Switchman. We find from the rejoinder that out of

written
five applicants four appeared in the examination and viva-voce test
and three of them joined as Switchman and 5th person Shri T.N. Sinha
did not qualify.

4. The case was listed for final hearing on 12-6-2000 when Shri B.N. Roy appeared on behalf of the applicants and Ms. K. Banerjee appeared on behalf of the respondents.

5. Keeping in view the admission of the applicants in the rejoinder that three of them had joined as Switchman but respondents did not consider the name of Shri T.N. Sinha dispassionately. Respondents could have considered him keeping in view the facts that he had been selected in the first time and was sent for training at Dhanbad. If necessary, he may be called for Viva-voce test in a justifiable manner. With this observation, we dismiss the application awarding no costs.


29.6.2000

(G.S. Maingi)
Member (A)


29.6.2000

(D. Purkayastha)
Member (J)

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