

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.514/2001

Tuesday this the 4th day of September, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

S.P.Nathan S/o P.Sankaran,
Senior Commercial Clerk,
Ernakulam Goods, Trivandrum Division,
Southern Railway, Ernakulam,
residing at XXXVIII/2001A
Elamkulam Road, Kaloor PO,
Kochi.17.Applicant

(By Advocate Mr. VR Ramachandran Nair)

v.

1. Union of India, represented by
the Secretary, Railway Board,
New Delhi.1.
2. The General Manager,
Southern Railway,
Park Town, Chennai.
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum.
4. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum.Respondents

(By Advocate Mr.Thomas Mathew Nellimootil)

The application having been heard on 4.9.2001, the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant a Senior Commercial Clerk,Ernakulam
Goods, Trivandrum Division of the Southern Railway has filed
this application praying that it may be declared that
pursuant to the selection initiated under notification dated
15.6.2000 (A1) the applicant is eligible to be appointed as
Commercial Controller on the scale Rs.5000-8000 and for a

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direction to the respondents to publish the result of the said selection and not to proceed the appointment as per Annexure.A3 selection resorted to subsequently and also to appoint the applicant as Commercial Controller with retrospective effect if selected as per Annexure.A1.

2. It is alleged in the application that pursuant to the notification Annexure.A1 dated 15.6.2000 the applicant who is a very senior Commercial Clerk applied, that he came out successful in the written examination, that he appeared in the viva-voce and that without any valid reason the respondents initiated a fresh selection without declaring the result of the selection initiated under Annexure.A1. The applicant, therefore, contend that as he has done exceedingly well in the written test as also in the Viva-Voce and is a very senior Commercial Clerk the respondents have gone wrong in initiating a fresh process of selection without appointing him on the post of Commercial Controller. It is also stated that though the applicant appeared in the fresh selection under protest and was again called for viva-voce he has not been selected and that it was understood that the respondents are bent upon appointing another person. With these allegations the applicant has filed this application seeking the aforesaid reliefs.

3. The respondents in their reply statement contend that the allegation that the result of the first selection was not announced is untrue, though it is not mandatory as

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per rules to announce the results, that the result was announced on 10.10.2000, that the applicant was aware of the fact that he was not selected, that he on 10.11.2000 made a representation to the Divisional Railway Manager making a grievance of non selection of any person who participated in the proceedings, that the applicant was informed by a reply Annexure.R3 that he was not selected as he did not get sufficient marks, that the applicant without demur applied for the second selection vide his application dated 14.3.2001 (Annexure.R4) and that in that selection one Mr.Sasidharan Nair has been selected. The respondents therefore, contend that the application is devoid of merit and the applicant is guilty of suppression of material facts.

4. The applicant has filed a rejoinder reiterating the contentions in the original application.

5. We have carefully gone through the pleadings as also the other materials placed on record. We have also heard Shri VR Ramachandran Nair, learned counsel of the applicant and Shri Thomas Mathew Nellimootil, learned counsel for the respondents at considerable length. Shri Ramachandran Nair with considerable vehemence argued that though it is stated in Annexure.R1 that the result has to be notified to the employees concerned, there is nothing on record to show that the applicant had been notified and without notifying the result of the first selection the action on the part of the respondents to conduct a fresh selection is unjustified. We

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do not find any force in this argument at all. From Annexure.R2 representation made by the applicant itself it is evident that the applicant understood the result of the selection process that he was dropped and that nobody was selected. He has stated so in so many words in his representation. However, this material fact has been suppressed by the applicant in the application. Faced with this difficulty, Shri Nair argued that what the applicant stated in the representation R.2 was that the selection process was dropped. We have carefully gone through the Annexure.R2 representation which reads as follows:

"Kindly let me request your esteemed attention to the following.

I scored first rank in the written test and am the senior most among the interviewed for the selection of Commercial Controllers. Despite this I was dropped. In a struggle spread over seven long years, though I used to secure top positions in all the five eligible tests, others were selected by virtue of seniority.

By gods grace, with seniority too favouring, I have to be selected this time. But the committee selected NOBODY.

This is for your sympathetic consideration and favourable orders please.

Kindly review the case and do justice."

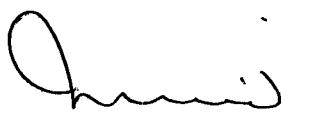
In the face of what is stated in Annexure.R.2 quoted above it is futile to contend that the applicant was unaware of the non-selection of anybody including him. It is further seen from Annexure.R4 the applicant applied for the second selection without any protest. It is therefore, evident that the applicant who did not succeed in the first

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selection, having appeared without protest in the selection and failed there also has filed this application without any bonafides.

6. In the light of what is stated above, the application which is devoid of merit and which is highly misconceived, is dismissed without any order as to costs.

Dated the 4th day of September, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(S)
4/9-11/9



A.V. HARIDASAN
VICE CHAIRMAN

APPENDIX

1. Annexure A-1 : True copy of notification No.V/P 608/III Comm1.Controllers dated 15.6.2000 issued by the 4th respondent.
2. Annexure A-2 : True copy of letter No.V/P.608/III/Comm1.Controller dated 28.8.2001 issued by the 4th respondent.
3. Annexure A-3 : True copy of letter No.V/P 608/III/Comm1.Controller dated 1.3.2001 issued by the 4th respondent.
4. Annexure A-4 : True copy of representation dated 19.3.2001 submitted by the applicant to the 3rd respondent.
5. Annexure A-5 : True copy of letter No.V/P 608/III/Comm1.Controller dated 18.5.2001 issued by the 4th respondent.
6. Annexure R-1 : A true copy of letter No.V/P 608/III/Comm1. Controller dated 10.10.2000 issued by the Senior Divisional Personnel Officer, Southern Railway, Trivandrum.
7. Annexure R-2 : A true copy of the representation dated 10.11.2000 of the applicant.
8. Annexure R-3 : A true copy of letter No.V/P 608/III/Comm1. Controller datred 2.5.2001 issued by the Senior Divisional Personnel Officer, Southern Railway, Trivandrum.
9. Annexure R-4 : A true copy of application dated 14.3.2001 submitted by the applicant.
10. Annexure R-5 : A true copy of Office Order No.44/2001/CC(No.V/P 608/III/Comm1. Controller dated 5.7.2001 issued by the Sr.Divisional Personnel Officer, Suthern Railway, Trivandrum.