

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.567/2001

Dated Tuesday this the 18th day of November, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

1. K.Babu Rajan Nair
S/o Shri R.Krishna Pillai
Ballast Train Checker (BTC)
Assistant Divisional Engineer's Office
Southern Railway
Quilon.
2. K.N.Praseed Kumar
Senior Trackman
S/o Shri P.A.Narayanan Nair
Section Engineer's Office
Southern Railway
Kottayam.
3. M.D.Varkey
Senior Trackman
S/o Shri Mathayi Devasya
Senior Section Engineer's Office
Southern Railway
Chalakkudi.
4. K.M.Nazarudeen
Senior Trackman
S/o Shri N.K.Muhammad
Section Engineer's Office
Southern Railway
Ernakulam.
5. A.V.Jacob
Senior Trackman
S/o Shri A.C.Varghese
Section Engineer's Office
Southern Railway
Aluva.
6. E.K.Dinesan
Senior Trackman
S/o Shri K.Kesavan
Section Engineer's Office
Southern Railway
Aluva.

Applicants.

(By advocate Mr.George Varghese Perumpallikuttiyl)

Versus

1. Union of India
Represented by General Manager
Southern Railway
Park Town, Chennai.

2. Chief Personnel Officer
Southern Railway
Chennai.
3. Senior Divisional Personnel Officer
Divisional Office
Personnel Branch
Southern Railway
Trivandrum.
4. Divisional, Engineer (North)
Divisional Office
Southern Railway
Trivandrum.
5. Ramesh Kambli
Divisional Engineer (North)
Divisional Office
Southern Railway
Trivandrum.
6. P.S.Mohanan Thambi
Senior Trackman
Section Engineer's Office
Southern Railway, Trivandrum.
7. P.Somarajan
Senior Trackman
Section Engineer's Office
Southern Railway, Trivandrum.
8. M.Sasidharan Nair
Senior Trackman
Section Engineer's Office
Southern Railway, Trivandrum.
9. P.Krishnaraj
Senior Storeman
Section Engineer's Office
Southern Railway
Nagarcoil.
10. B.Prabhakaran Nair
Senior Trackman
Section Engineer's Office
Southern Railway, Quilon.
11. G.Sasikumaran Nair
Senior Trackman
Section Engineer's Office
Southern Railway, Quilon.
12. P.Parameswaran Pillai
Ballast Train Checker
Southern Railway
Trivandrum Central.
13. C.Sreekantan
Adhoc Ballast Train Checker
Southern Railway
Trivandrum Central.

Respondents

(By advocate Mrs.Sumathi Dandapani for R1-5)
(Mr.R.Pushpangathan Pillai for R10)

The application having been heard on 18th November, 2003, the Tribunal on the same day delivered the following:

O R D E R

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

First applicant is a Ballast Train Checker and applicants 2 to 6 are Senior Trackmen. They participated in a limited departmental competitive examination for filling up 25% of the vacancies of Supervisor/Permanent Way Mistries in the pay scale Rs.4500-7000 pursuant to A-1 notification dated 18.4.2000. A written test was held on 28.4.2001. As a result of the written test, only 8 persons, namely respondents 6 to 13 were called for viva voce by letter dated 13.6.2001 (Annexure A4). Finding that the applicants' names were not there in A-4 call letter, dissatisfied by the manner of selection, the applicants have filed this application seeking to set aside A-1 notification, declaring that the selection process of Superintendent/Permanent Way Mistries pursuant to A-1 is illegal and for a direction to respondents 1 to 3 to conduct selection to the post of Supervisor/Permanent Way Mistries in the Trivandrum Division of Southern Railway afresh on the basis of Railway Board orders in that regard. It is alleged in the application that the question papers for the written test were in English, that the applicants were not permitted to write in regional languages, that the stipulation regarding holding of viva voce contained in A-1 is against the clarifications given in A-6 P.B.C.No.40/99 and that the holding of the test contravening the Railway Board's circular and not allowing the applicants to write the examination in the regional languages having caused prejudice to the applicants, the impugned notification as also A-4 call letter are liable to be set aside. The applicants, therefore, have prayed that the respondents may be directed to re-do the selection in accordance with the rules and instructions on the subject.

2. The official respondents have filed reply statement seeking to justify the impugned notification as also the call letter A-4. They contend that the clarifications contained in A-6 applies to recruitment made by Railway Recruitment Board whereas the procedure for limited departmental competitive examination is as contained in paragraph 219 of the Indian Railway Establishment Manual. There is no prohibition in holding a viva voce to assess the suitability of the incumbent for promotion as per rules and, therefore, the challenge against the notification is without merit, contend the respondents. Regarding the use of regional language, the respondents contend that the applicants did not raise any grievance at the time of the examination and, therefore, it is idle for the applicants, at this stage, to raise any grievance.

3. It has been alleged in the application that the 5th respondent had shown favouratism to those who were closely associated with him and, therefore, the process of selection was vitiated by malafides.

4. The 5th respondent has filed an affidavit denying the allegation of malafides raised against him. It has also been made clear by the 5th respondent that the candidates had written their answer papers in their regional languages also and there is no substance in the allegation that they were not allowed to write in Malayalam.

5. On a careful scrutiny of the entire material placed on record and on hearing the learned counsel of the applicant as also of the respondents, we do not find any substance in the

allegation made in the application and the challenge against A-1 & A-4. If the applicants had any grievance regarding the holding of a viva voce, A-1 notification should have been immediately challenged. Although the notification was issued on 27.6.2000 and the examination was held on 28.4.2001 and viva voce held on 13.6.01, the OA was filed on 4.7.01. The applicants willingly participated in the process of selection. Further no rule or instruction has been brought to our notice that in the process of selection under the departmental competitive examination, viva voce should not be held. A-6 does not relate to promotions made under the limited departmental competitive examination. It relates to direct recruitment by Railway Recruitment Board. Therefore, the challenge against A-1 has no substance. Regarding the claim of the applicants that they were not permitted to write the examination in regional language and this has caused prejudice to them, we find absolutely no substance in this argument in view of the fact that the 5th respondent in the reply statement clearly stated that the candidates were allowed to write the test in regional languages such as Malayalam, Tamil and Hindi and those papers had also been evaluated.

6. The applicant has not filed any rejoinder refuting this. Further, if the applicants had any grievance that they were not allowed to write the test in regional languages which caused prejudice to them, normally they would have immediately made a complaint to the higher authorities. They did not do so. The applicants, understanding that they did not come out successful

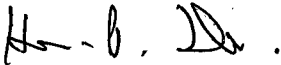
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in the written test, have filed this application challenging the process of selection. Further the 5th respondent has in his reply statement clearly refuted the allegation of malafides. The allegation of malafides is also vague, bald and non specific.

7. In the light of what is stated above, we do not find any infirmity in the impugned orders nor do we find that the selection process has been vitiated for any reason.

8. In the result, the application which is devoid of merit, is dismissed. No costs.

Dated 18th November, 2003.


H.P.DAS
ADMINISTRATIVE MEMBER

aa.


A.V.HARIDASAN
VICE CHAIRMAN