

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A.NO. 61/2005**

Thursday, the 20th day of January, 2005.

CORAM :

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

1. **A.V. Raj,**
Senior Section Engineer/Permanent way/South
Southern Railway/Salem Junction,
Residing at : No.38, East Railway Colony,
Sooramangalam, Salem – 5.
 2. **R.Sekar,**
Section Engineer/Permanent Way/Ultrasonic Flaw Detection,
Southern Railway/Salem Junction,
Residing at : No.165B, West Railway Colony,
Sooramangalam, Salem – 5.
 3. **M.B.Srinivasan**
Section Engineer/Permanent Way/Ultrasonic Flaw Detection,
Southern Railway/Salem Junction,
Residing at : No.77-A, Nursery Street,
Peramanur, Salem – 7.
 4. **M.Ameerutheen,**
Section Engineer/Works
Southern Railway/Salem Junction,
Residing at : No.22 Eastern Railway Colony,
Salem.
 5. **A. Ramachandran,**
Senior Section Engineer/Permanent Way/North,
Southern Railway/Salem Junction,
Residing at : No.29, East Railway Colony,
Sooramangalam, Salem – 5
- : Applicants**

(By Advocate Mr. T.C.Govindaswamy)

Vs.

1. **Union Of India represented by**
the General Manager, Southern Railway,
Headquarters Office, Part Town P.O
Chennai – 3.

contd...2/-

2. The Chief Personnel Officer,
Southern Railway,
Headquarters Office, Park Town P.O.,
CHENNAI - 3.
3. The Principal Chief Engineer
Southern Railway,
Headquarters Office, Park Town P.O.,
CHENNAI - 3.
4. The Chief Vigilance Officer
Southern Railway,
Headquarters Office, Park Town P.O.,
CHENNAI - 3.
5. The Senior Divisional Engineer/Co-ordination
Southern Railway/Palghat Division, **PALGHAT**
6. SHRI M SRINIVASULU
Section Engineer/Designs
Office of the Chief Engineer
Headquarters Office, Southern Railway
Park Town, **CHENNAI-3**
7. SHRI M GANESH
Section Engineer/Works
Office of the Deputy Chief Engineer/Gauge Conversion
Southern Railway, **MADURAI, TN**
8. SHRI A V SREEKUMAR
Junior Engineer-I/Permanent Way
Office of the Deputy Chief Engineer/Construction
Southern Railway, **TRIVANDRUM**
9. SHRI N JAYARAMAN
Junior Engineer-I/Works
Office of the Deputy Chief Engineer/Construction
Southern Railway, **CHENNAI. TN.**
10. SHRI T S NAGARAJ
Safety Counsellor/Engineering (SE/SFC/ENGG/SBC)
Office of the Divisional Railway Manager
South Western Railway, **BANGALORE**
11. SHRI R K KANNAN
Junior Engineer-I/Works
Office of the Deputy Chief Engineer/Gauge Conversion
Southern Railway, **MANAMADURAI, TN.**
12. Shri S Marimuthu
Junior Engineer - I/Works
Office of the Deputy Chief Engineer/MTP
Southern Railway,
Chennai Egmore, **CHENNAI**

13. SHRI K VENKATESAN
Section Engineer/Works (Special Works)
Office of the Senior Section Engineer/Works
Southern Railway, Park Town, **CHENNAI TN**
14. SHRI S MANTHIRAMOORTHY
Junior Engineer-I/Works/B
Office of the Executive Engineer/Golden Rock Workshop
Southern Railway, **TIRUCHIRAPALLI, TN.**
15. SHRI C GNANA BASKAR KOILRAJ
Section Engineer/Drawing
Office of the Chief Engineer
Headquarters Office, Southern Railway
Park Town, **CHENNAI-3**
16. SHRI N UMASHANKAR
Section Engineer/Permanent Way/USFD
Office of the Divisional Railway Manager/Works
Southern Railway, NGO Annexe,
CHENNAI-3
17. SHRI L GOPI CHANDRA NAYAKA
Junior Engineer-II/Works
Office of the Chief Engineer/Construction
South Western Railway, BANGALORE CANTT,
BANGALORE
18. SHRI U ARULMOZHI
Section Engineer/Permanent Way/USFD
Office of the Divisional Railway Manager/Works
Southern Railway, **TIRUCHIRAPALLI TN**
19. SHRI K G GNANA SEKAR
Section Engineer/Works/PCO
Office of the Deputy Chief Engineer/Guage Conversion
Southern Railway, **MANAMADURAI TN.**
20. SHRI C KADIRAVAN
Section Engineer/Drawings
Office of the Chief Engineer/Construction
Southern Railway, Park Town, **CHENNAI**
21. SHRI S SIVAKUMAR
Senior Section Engineer/Works
Office of the Deputy Chief Engineer/MTP
Southern Railway, **CHENNAI EGMORE, CHENNAI**
22. SHRI L B SINGH MAURYA
Junior Engineer-II/Works
Office of the Divisional Railway Manager/Works
South Western Railway, **MYSORE**

23. Shri S. Shanmugam
Section Engineer/Works
Office of the Chief Engineer
Headquarters Office, Southern Railway
Park Town, CHENNAI - 3.
24. Shri P. Anand
Section Engineer/Permanent Way/USFD
Office of the Divisional Railway Manager/Works
Southern Railway, TRIVANDRUM.
25. The Railway Board, Rail Bhawan
NEW DELHI - through its Secretary. : Respondents
- (By Advocate Smt. Sumathi Dandapani)

The application having been heard on 20.01.2005, the Tribunal on the same day delivered the following :

ORDER

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

The applicants who are Senior Section Engineers and Section Engineers who were successfully participated in the limited competitive departmental examination for appointment to Group 'B' Civil Engineering Department have jointly filed this application challenging the validity of the panel of 19 persons prepared on the basis of the selection (Annexure A-19) as also Annexure A-8 communication dated 03.01.2005 issued by the 5th respondent in reply to the representation made by the second applicant complaining of his non selection, by which he was informed that he having not obtained 90% marks in the minimum prescribed did not qualify in the written examination. It is alleged in the application that the selection was not properly held as there was no objective questions as stipulated in the notification, as the roll numbers were issued according to the normal

procedure, because candidate within same seniority unit and place were put together throwing open chances for malpractices, that even though the applicants had performed very well in the written test they were surprised to find that their names were not included in the list of 19 persons called for viva voce (Annexure A-3), that although the applicant's submitted representations they were rejected without application of mind and that thereafter Annexure A-7 panel was published selecting all the 19 persons who were called for viva voce . The selection had been held in an irregular manner and the panel Annexure A-7 is liable to be set aside and that the respondent have to be directed to hold a fresh selection. The applicants pray that the respondents may be directed to do so.

2. Smt.Sumathi Dandapani, Standing Counsel for Railways took notice on behalf of official respondents 1 to 5 and 25 and submitted that the applicants who did not get the qualifying marks of 90% were not called for viva voce, that although the written test was held on 13.03.2004, the representations were made by the applicants only after publication of the result of written test on 23.11.2004 finding that the applicants did not succeed in the written test and that as no irregularity was mentioned in the representation Annexure A-4 there is absolutely no bonafides in filing an application. The Counsel pleaded that the application which is even prima facie vexatious may not be admitted.

3. We have carefully perused the application and the other materials placed on record and have heard the counsel on either side.

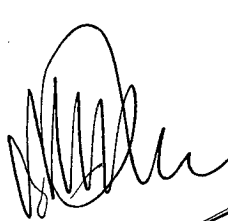
Shri T.C.Govindaswamy submitted that the applicants who are degree holders and diploma holders in Engineering having performed well in the written examination, their non inclusion in the list Annexure A-3 was obviously the result of irregularities and malpractices and not holding the written test and selection in an objective and regular manner. He pleaded that if the answer papers of the applicants and all others are produced before this Court and verified the malpractice would come to light and therefore this is a fit case where the Tribunal should exercise jurisdiction and call for the records. Smt.Sumathi Dandapani submitted that apart from the assertion in the application that the applicants had performed very well and that their non inclusion in the list was a result of improper conduct of the selection process there is nothing on record even prima facie to establish the same and that even in Annexure A-4 representation no allegation of improper holding of written test is mentioned, there is nothing which calls for admission of this application. We find that the learned counsel of the respondent is right in her contention. Apart from a wishful thinking expressed in the application that the applicant's had done very well there is nothing which shows that the applicants have a legitimate cause of action. Even in the representation the applicants had not mentioned that the question papers did not contain objective questions or that there has been any irregularities or malpractice in the holding of the test. They had only sought communication of marks and opportunity to peruse the papers so that they could be guided in

their next chance. Further while the test was held in April, 2004 the representation was made only in December, 2004 after Annexure A-3 list was issued. Their failure to make the grade to be called for viva voce and their disappointment in not being selected do not constitute a valid cause of action. If there had been any irregularities in the written test the applicants as people of ordinary prudence would immediately have protested. Even in the Annexure A-4 representation filed after Annexure A-3 was published there was no mention of any irregularity. It is therefore, obvious that there is absolutely no bonafides in the claim made in this application. There is no allegation of malafides against the selection Board or any member thereof.

4. In the result, in the light of what is stated above, we reject the Original Application under Section 19 (3) of the Administrative Tribunal's Act. No order as to costs.

Dated, the 20th January, 2005.


H.P.DAS
ADMINISTRATIVE MEMBER


A.V.HARIDASAN
VICE CHAIRMAN

VS