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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

Lucknow this the 24<sup>th</sup> day of May, 99.

O.A. No. 283/92

HON. MR.D.C. VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

Om Prakash Gupta, aged about 37 years, son Sri Jiala, resident of 209-Cha-2, Durdjaiganj, Lucknow.

Applicant.

By Advocate Shri A. Moin.

versus

1. 1.Dy. Chief : Electrial Engineer(Workshop)  
Northern Railway, Charbagh, Lucknow.
2. Union of India through General Manaer,  
Northern Railway Baroda House, New Delhi.

Respondents.

By Advocate Shri Anil Srivastava.

O R D E R

HON. MR.D.C. VERMA, MEMBER(J)

By this O.A., the applicant has prayed that the result of the selection made against notification contained in Anneuxre-1 for recruitment of Intermediate Apprentice Mechanic (Train Lighting Group) post <sup>1</sup>Chargeman B grade be announced and punblished and the order cancelling the said result be quashed.


2. Brief facts are that in pursuance of notification dated 7.12.91 <sup>1</sup>for recruitment of Intermediate Apprentice Mechanic for T.L. Group, Skilled Artisans against 25% quota was held by the department. After written test the applicant O.P. Gupta and another were found eligble and were called for viva voce test. After the viva voce test the result was not declared but was cancelled, hence this O.A.

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3. The submission of the learned counsel for the applicant is that as per Annexure S-1 dated 31.7.92, filed by the respondents, with their Supplementary application, the result was cancelled by the Chief Electrical Engineer, who was not the authority competent to cancel the selection. The learned counsel for the applicant has drawn attention towards Indian Railway Establishment Manual which contains the rules governing the promotion of group C staff. The learned counsel has drawn attention towards para 215 which is in respect of selection post but said para (i) (ii) provides that selection Board should <sup>be</sup> called for viva voce test of candidates, who secured not less than 60% marks in the written test. It further provides the final panel should be drawn up on the basis of marks obtained in the written and viva voce test in accordance with the procedure for filling the selection post. Sub para K and L are relevant and so they are reproduced below:

"(k) The list will be put up to the competent authority for approval. Where the competent authority does not accept the recommendations of a Selection Board, the case could be referred to the General Manager, who may constitute a fresh Selection Board at a higher level, or issue such other orders as he considers appropriate.

(L) After the competent authority has accepted the recommendations of the Selection Board, the names of the candidates selected will be notified to the candidates. A panel once approved should normally not be ~~altered~~ or amended. If after the formation and of



the panel with the approval of the competent authority it is found subsequently that <sup>because of</sup> some procedural irregularities or other defects <sup>it is</sup> necessary to cancel or amend the panel, this should be done after obtaining the approval of the authority next higher than the one who approval the panel.

4. As per para (k) above, the competent authority is to approve the list. However, where the competent authority does not accept the recommendation of the Selection Board, the same could be referred to the General Manager who may constitute a fresh selection though at a higher level or issue such orders as be considered appropriate. The submission of the learned counsel is that the competent authority i.e. the Chief Electrical Engineer in this case was not authorised to cancel or to order for a fresh selection- the submission is that this power can be exercised by the General Manager.

5. In the case in hand we find that the result has been cancelled by the Chief Electrical Engineer and it was not referred to the General Manager. The learned counsel for the respondents has submitted that as per <sup>5</sup> per (k) if the competent authority does not accept the recommendation of the Selection Board, only then the matter be referred to the General Manager. His submission is that in this case, there was no recommendation of the Selection Board and therefore, the matter was not required to be placed before the General Manager. We are unable to agree to the submissions made by the learned counsel for the respondents. The competent authority i.e. Chief Electrical Engineer in this case, has not been given any power to cancel the

result or to order fresh selection. That power exists with the General Manager only. Thus, even if there is no recommendation of the Selection Board, the selection could have been cancelled by the General Manager only.

6. The learned counsel for the respondents has referred to sub para (L) quota above and has submitted that after the names of the selected candidates were notified and it was found subsequently, that procedural irregularities or other defects were there to cancel or amend the panel, it could be done after obtaining the order of the authority next higher than the one who approved the list. In our view para (L) is not applicable on the facts of the present case.

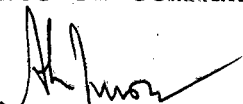
IN the present case, the recommendation of the selection Board was not accepted by the competent authority and prior to acceptance of the recommendation, the competent authority cancelled the result. Thus, sub para (L) is in respect of subsequent stage where irregularity or defect is detected after the competent authority had accepted this recommendation of the Selection Board. The facts of the present case are within the said para (K) and therefore, the authority competent to cancel the result was the General Manager and not the Chief Electrical Engineer. As in the present case, the result has been cancelled, by the Chief Electrical Engineer, the order cancelling the result is not valid.


7. The learned counsel for the applicant has placed reliance on a Division bench decision given by Calcutta Bench of the Central Administrative Tribunal in the case of Mrityunjay Sarkar vs. Union of India and others

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reported in (1989) 11, A.T.C., 734 wherein also a denovo viva voce test by a new Selection Board after cancelling the first viva voce was ordered. It was held by the Tribunal that in the absence of prior approval of General Manager, such action is violative of para 216(i) of the Railway Establishment Manual. Para 216(i) of the Railway Establishment Manual, as it then existed, has been reproduced in para 7 of the Tribunal's order and it is similar to present sub para (K) and (L) of para 214 of Indian Railway Establishment Manual. The facts of the present case are thus fully covered with the decision of the Calcutta Bench of the Tribunal.

8. In view of the discussions made above, we hold that the cancellation of the result by the Chief Electrical Engineer is violative of para 215 (K) of the Indian Railway Establishment Manual, and therefore, the order cancelling the said result is hereby quashed. We direct the respondents to announce and publish the final result of selection held in pursuance of the notification dated 7.12.91. We also direct that in case, on such publication of the result, the applicant is found selected, he ~~may~~<sup>5</sup> be promoted and given all consequential benefits. Compliance of this order be made within two months from the date of communication of this order. Costs easy.

  
MEMBER (A)

  
MEMBER (J)

Lucknow; Dated: 24.5.99

Shakeel/