

Central Administrative Tribunal  
Lucknow Bench

OA No.1876/2003  
MP No.2028/2003

Lucknow this the 27th day of November, 2003.

Hon'ble Mr. Shanker Raju, Member (J)  
Hon'ble Mr. S.P. Arya, Member (A)

Arjun Kumar Srivastava & Others

-Applicants

(By Advocate - None)

-Versus-

Union of India & Others

-Respondents

(By Advocate Shri N.K. Aggarwal)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

When the case was called out, even on the second call, none appeared for applicants. The OA is, therefore, proceeded in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicants who are Apprentices having qualified in the prescribed test and examination have assailed the notification dated 28.7.2003 for different posts, whereby they have challenged the action of the respondents requiring them to appear in the written examination. It is contended in the OA that applicants who have been duly selected by respondents in apprenticeship after qualifying in the written examination followed by viva voce and their seniority is maintained notifying the vacancies through Railway Recruitment Board is violative of the doctrine of legitimate expectation. They have assailed the order of the respondents' notification as discriminatory and claim appointments on the basis of interview and physical fitness. They have also challenged the pick and choose policy of the respondents.

3. On the other hand, respondents relying upon a catena of decisions it is contended that as per the decision of the Apex Court in U.P. Rajya Vidyut Parishad Apprentice Welfare Association and Another v. State of U.P. and Others, (2000) 5 SCC 438 and U.P. SRTC v. U.P. Parivahan Shishukhs Berozgar Sangh, (1995) 2 SCC 1 for apprentices held that they are

entitled for age relaxation and if all things are equal with non-apprentices they would be given preference. Aforesaid decision was also taken into consideration by the Full Bench of the Allahabad Bench in Arvind Gautam v. State of U.P. & Others, (1999( 2 UPLBEC 1397, wherein it is held that if all the conditions are equal with non-apprentice candidates they are also to participate in the selection test and the only preference given to the apprentice trainees is when they secure at par with others. The aforesaid decision was also re-iterated in OA-411/2003 by this Bench decided on 1.9.2003 in Shishir Chandra Singh v. Union of India & Others. The Apex Court in Tamil Nadu Elect. Board v. P. Arul & Ors. (CA Nos.5285-5328/96) decided on 3.10.96 held that for apprentices they have to qualify and appear in the selection along with others and the preference would be given as per the law laid down in U.P. Parivahan Niam's case (supra).

4. Respondents further state that duplicate admission cards are being issued upto 28.11.2003 and the selection is slated for 30.11.2003 and applicants would be entitled to appear. It is also stated that the further process of selection would be governed as per the decision of the Apex Court in U.P. Parivahan Nigam's case (supra) in so far as apprentices are concerned.

5. We have carefully considered the pleadings on record and considered the contentions put-forth by the learned counsel for respondents. In the light of the decision of the Apex Court in P. Arul's case (supra), U.P. Parivahan Nigam's case as also Full Bench decision of the Allahabad High Court in Arvind Gautam's case (supra) apprentices are not exempted from participating in the selection process despite the fact that they have qualified in the apprenticeship examination as well as viva voce. The stipulation that they are equal in all respects with others connotes that they have to be subjected to

the selection test at par with non-apprentices, as such the request of applicants for exemption from appearing in the selection process cannot be countenanced and is not in consonance with the decisions cited (supra). However, keeping in view the fact that respondents are issuing duplicate admission cards and applicants would be entitled to appear in the examination, the further course of action shall be governed in terms of the decision in U.P. Parivahan Nigam's case (supra) in so far as appointments of the apprentices are concerned. With these observations OA stands disposed of accordingly. No costs.

  
(S.P. Arya)  
Member (A)

  
(Shanker Raju)  
Member (J)

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