

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Original Application No.563/2005

23rd
This the > Day of March 2007

HON'BLE MR. A.K. SINGH, MEMBER (A).

HON'BLE MR. M. KANTHAIAH, MEMBER (J).

Prabhat Kumar Srivatava, aged about 32 years son of Shri Ramchandra Nath Lal, R/o Village & P.O. Sarai Bharati, District Balia.

...Applicant.

By Advocate: Shri R.K. Tripathi.

Versus.

1. The Union of India through the Secretary (Ministry of Railway) Railway Board, Rafi Marg, New Delhi.
2. Director General (R.D.S.O.) Research Design and Standard Organization, Manak Nagar, Ministry of Railway, Lucknow.
3. The Chairman, Railway Recruitment Board, Gorakhpur.
4. The General Manager, North Eastern Railways, Gorakhpur.

...Respondents.

By Advocate: Shri N.K. Agrawal.

ORDER (Oral)

BY HON'BLE MR. M. KANTHAIAH, MEMBER (J).

The applicant has filed this Original application challenging the validity of letter Dated 11.10.2001 (Annexure- 1) and letter dated 12.06.2006 (Annexure- 2) issued by Respondent No. 2 and 3 respectively, canceling the indent of notification vide Employment News No.1/2000-01 (Annexure-) for the post of JDA/JRA (Civil) and

[Signature]

also direction for declaration of the result of final examination on the following grounds:-

(I). The action of the respondents in canceling the indent is wholly illegal, arbitrary and without jurisdiction and also against the Circular dated 20.10.1999.

(II). The canceling power of the indent is only vested with the Railway Recruitment Control Board (RRCB) but not by Railway Recruitment Board (RRB).

(III). No reasons have been assigned for cancellation of these posts of JDA/JRA (Civil) and no opportunities was given to the candidates before canceling the indent.

2. The respondents have denied the allegations of the applicant and opposed the claim of the applicant stating that there was no irregularity or illegality in cancellation of the indent for the post of JDA/JRA (Civil).

3. Heard both sides.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. The admitted facts of the case are that in pursuance of the indent sent by the 2nd Respondent, 3rd Respondent issued an Advertisement in the Employment News dated 15.07.2000 (Annexure-CA-5) for various posts including 18 post of JDA/JRA (Civil) in the pay scale of Rs. 5000-8000, keeping in view of the recruitment rules. A perusal of the employment notice dated 15.07.2002 would reveals in Para 8.0, Para 20 and Para 24 are as follows: -

Para 8.0:- Number of vacancies are provisional and are subject to variation (increase or decrease) as per the requirement in future."

Para 20: - The decision of Railway Recruitment Board, Gorakhpur in all matters relating to eligibility, acceptance or rejection of the applications, penalty for false information, made on selection, allotment of posts to selected candidates etc. will be final and binding on the candidates and no enquiry or correspondence will be entertained by the Railway Recruitment Board in this connection.'

Para 24: - The decision of the Chairman, Railway Recruitment Board, Gorakhpur with regard to candidature and selection process will be final."

6. The applicant who applied for the post of JDA/JRA (Civil) post also appeared in the final examination on 18.02.2001 Annexure-3 and 4 are the copies of the Admit Card issued to him. It is also not in dispute that the examination of JDA/JRA (Civil) and Mechanical Engineer Wing was taken place jointly and the result of Mechanical Engineer's had been declared on 22.02.2001 but the result of JDA/JRA (Civil) has not yet been declared.

7. Without declaring the result of the final examination, the respondent No.2 made request for cancellation of result of all the indent of 17 post of JDA/JRA (Civil) basing on the Railway Board letter dated 19.07.2000 issued instructions regarding rightsizing of staff of Indian railway and restricted the percentage of total intake through direct recruitment at the maximum 1% per annum. Basing on the information of 2nd Respondent, 3rd Respondent approached the Railway Board for approval/ cancellation of the said indent of Railway Board vide letter No. E (RRB)/2002/30/7 dated 12.06.2002 (Annexure-2) communicated the approval of the competent authority for cancellation of the indent of 17 posts of JDA/JRA (Civil). Annexure-CA-7, CA-8 and CA-9 revals of some other post was also withdrawn from Staff Selection Commission, Allahabad/ New Delhi.

8. Without declaring the result of final examination, the respondent No.2 and 3 have canceled the indent of notified 17 post of JDA/JRA (Civil). Annexure-1 and 2 are the said letters issued by respondents No.2 and 3 respectively. Aggrieved for such cancellation of indent for the 17 posts of JDA/JRA (Civil), the applicant has been filed this OA questioning the validity of such letters of the respondents and also for the declaration of the result of final examination. Respondents have filed copies of the judgments on the file of Central Administrative Tribunal, Lucknow Bench, Central Administrative Tribunal, Allahabad Bench under which the applicants have made similar requests, questioning for cancellation of the indent and also declaration of the final result and dismissal of such claims. Annexure CA-1 & CA-2 are such copies of orders.

9. The main arguments of the learned counsel for the applicant is that the cancellation of indent vides Annexure-1 and 2 are against the Circular Dt. 20.10.1999 (Annexure-5). As per the said circular RRCB formulated ^{three} ~~their~~ stages for consideration of the proposals for modification/cancellation of indent placed by concerned RRBS. After conduct of written examination, it is to be followed by final examination or interview and at that stage only RRCB is the competent authority for cancellation of tender. The contention of the applicant is that in the instant case after conduct of the final examination, it had reached to the final stage and at this stage only RRCB is the competent authority for cancellation of tender but not by RRB, who issued Annexure-A-II.

10. It is the case of the respondents that before the result of the second stage of written examination could be declared, Railway Board

[Handwritten signature]

vide circular dated 19.07.2000 (Annexure-CA-7) issued instructions regarding rightsizing of staff of Indian Railways and restricted the percentage of total intake through direct recruitment at the maximum 1 % per annum of on roll strength, due to which 3rd Respondent was forced to cancel the indent for this 17 posts of JAD/JRA (Civil) and some other posts, whose final examination result were not yet declared and thus substantiated their action.

11. The learned counsel for the applicant argued that the subsequent circular Dt. 19.07.2000 is not binding to this recruitment, and much relied on earlier circular Dt. 20.10.1999 (Annexure-5) only. No doubt, Annexure-A-5 was in vogue as on the date of notification of filling of these posts, but during the proceedings of such recruitment, Railway Board issued another circular, in connection with the recruitment and as such the same is no doubt applicable to the pending recruitment also. Thus there is no justification in the argument of the applicant, canvassing against the latest circular (Annexure-CA-7) and also insisting to rely on earlier circular 20.10.1999 (Annexure-5) only.

12. The respondents have filed documents Annexure CA-7, CA-8 and CA-9 under which there was occasion to cancel the tender for 17 posts of JDA/JRA (Civil) and other group posts, whose final examination results were not declared by the date of issuance of rightsizing of staff of Railway department under Annexure-CA-7 circular.

13. Further Para 24 of the notification (Annexure CR-5) also shows that the decision of the 3rd Respondent is final in the selection process. During pendency of the recruitment process, as per the advise of the 2nd Respondent, 3rd Respondent has cancelled the indent in view of



latest decision of the board restricting intake, the direct recruitment at the maximum of 1 % per annum of the roll strength.

14. There is no material on record to show that these posts have been filled up by the respondents, by any other mode or method to attribute any motives for cancellation of indent.

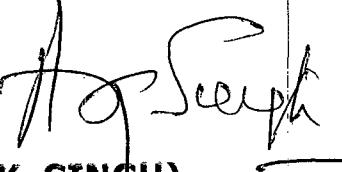
15. From the above discussion, it is clear that the respondents have properly explained the valid and justified reasons, which are forced them to cancel the indent for the post of JDA/JRA (Civil) during the pendency of recruitment process.

16. When no results were declared for final examination, there was no finality of the recruitment process and in such circumstances accruing any right to the applicant and other candidate does not arise. Thus no opportunity was given to the applicant before cancellation of indent causes any prejudice to them is not at all a justified ground.

17. In view of the above circumstances, the applicant has not made out any case to question the validity of impugned letter Annexure-1 Dt. 11.10.2001 and Annexure-2 Dt. 12.06.2002 and also for consequential relief for declaration of result of final examination for the posts of JDA/JRA (Civil) and thus the application is liable for dismissal

In the result, Original application is dismissed. No costs.

.....
(M. KANTHAIAH)
23.3.07
MEMBER (J)


(A.K. SINGH)
MEMBER (A)

/ak/