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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH
(LUCKNOW BENCH)

....

Registration O.A. No. 102 of 1990 (L)

Mahendra Prakash Applicant

vs

Union of India through Chief

Workshop Manager, Loco Workshop,

Charbagh, Lucknow and others ... Respondents

Hon'ble Justice K. Nath, V.C.

Hon'ble Mr A.B. Gorthi, A.M.

(By Hon'ble Mr. A.B. Gorthi, A.M.)

In this application under section 19 of the Administrative Tribunals Act 1985, Sri Mahendra Prakash, the applicant alleges that while only 4 candidates including himself qualified at a written test held on 15-12-1989 for promotion from Head Clerk to Assistant Superintendent, respondents no. 3 and 4 ^{were} being illegally called for the interview alongwith ^{the} successful candidates. The applicant seeks our intervention to prevent this injustice to him. Subsequent to the filing of this application, the viva-voce also was held and the results finalised.

2. The applicant, a Head Clerk in Loco Workshop Lucknow appeared for a written examination held on 15-12-89 for promotion to the selection post of Assistant Superintendent (non-personnel) in the grade of Rs.1600 - 2060. 18 candidates were called, 15 appeared and 4 including the applicant qualified there at. Sri Jieut Bundhan (Respondent no.3) and Shri Ram Gopal (Respondent No.4) also took the written test, but did not secure the minimum qualifying marks i.e. 60%. So initially, only the 4 successful candidates were called for the

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interview scheduled to be held on 16-3-1990, but it was postponed to 31-3-1990 when respondents no. 3 and 4 were also interviewed.

3. Admittedly, the applicant and respondents no. 3 and 4 belonging to Scheduled Caste (S.C. for short) community. Pass percentage for general candidates was 60%, but for S.C. candidates it was 10 out of 35 marks. This latter aspect, as stated by the Railway Authorities (Respondents no. 1 and 2), was in-advertently glossed over when the result of the written test was declared. Later on, realising that respondents no. 3 and 4 scored more than 10 out of 35 marks, they too were considered as having passed in the written test and called for the interview.

4. As per instructions of the Railway Board (Annexure-CA-I and CA-2) a general candidate must obtain 30 out of 50 marks in professional ability, and the marks allotted for written examination should be not ~~be~~^{be} less than 35. As the applicant cast certain doubts on the fairness of the test conducted, we call for the official record. It is seen that in this particular examination, the division of marks was as shown below:

(a)	written examination	-	35
(b)	viva-voce	-	15
(c)	Leadership etc.	-	20
(d)	record of service	-	15
(e)	Seniority	-	15

Total: 100

Signature

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5. In the written examination held on 15-12-79, the applicant secured 21 marks (i.e. 60%). The respondents no. 3 and 4 scored 13 and 12 marks respectively. Initially the applicant was among the successful candidates, as he scored 60% marks, but later on based on Railway Board's policy instructions, respondents no. 3 and 4 who scored more than 10 marks out of 35 were also declared successful and called for interview.

6. During the course of the hearing, the fairness of the conduct of the examination was assailed by the applicant making an issue of certain minor over-writings in the marks recorded^{1 and} in the correctness of the allotment of marks under various heads in the test proceedings drawn by the Board of Officers. We, therefore, called a member of the Board, Shri Hemant Kumar, Deputy C.M.E. (Workshop) and recorded his deposition, giving opportunity to both the counsel to question him. Consequently, we are more^{1 than} satisfied that there was no irregularity in the conduct of the examination, both written and oral, as also in the record of the marks allotted to each candidate. The question of inter se seniority between the applicant and respondent no.3 was also raised, ^{1 and} resolved in favour of respondent no.3, as the applicant came on a compassionate posting accepting bottom line seniority. The marks allotted for seniority to each candidate were also thus in order. The over writing found in a couple of places in the final Board's proceedings, cannot be faulted as marks tallied correctly with the average of marks allotted by each of the 3 members of the Board. The final result in which the applicant and respondent no.3 have been shown as 'passed' and respondent no.4 as 'failed' seems to us to be sufficiently in order. As there

was only one vacancy in S.C. Category and respondent no. 3 being senior to the applicant, the former was correctly recommended to be empanelled for promotion to the post of Assistant Superintendent (non-personnel). We, therefore, dismiss the application and vacate the interim orders passed in the case.

7. Suspension and unfounded fears seem to have driven the applicant to rush to this Tribunal with wild accusations of corruption and unfairness. We would have, therefore, made an order as to costs against the applicant, but have refrained from doing so bearing in mind the financial status of the applicant.


MEMBER (A)


VICE CHAIRMAN

(sns)

May
~~April~~ 06, 1991.

Allahabad.