

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No. 373 of 1990
this the 11th day of May '2000.

HON'BLE MR D.V.R.S.G. DATTATREYULU, MEMBER (J)
HON'BLE MR S. MANICKAVASAGAM, MEMBER (A)

M.C. Roy, S/o late N.C. Roy, Travelling Ticket Examiner under
Station Supdt, N.R. Charbagh, Lucknow, resident of Railway
Quarter no. A/5-B, Jail Road, Lucknow. and four others.

... Applicants

By Advocate : None

Versus.

Union of India through the General Manager, Northern Railway,
Baroda House, New Delhi.

2. Divisional Railway Manager, Northern Railway, Lucknow.
3. Divisional Personnel Officer, N.R., Lucknow.

... Respondents

By Advocate : Sri Anil Srivastava

O R D E R

D.V.R.S.G. DATTATREYULU, MEMBER (J)

The applicants in this case pray for production of
answer books of the candidates alongwith the selection proceedings
and after examining the same, to quash the selection
alongwith Annexures A-3, A-7 and A-10.

2. The brief facts of the case are as follows :
The applicants averred in the application that the
respondent no.3 by his notification no. 757 E/6/8/TTE/88 dated
9.6.88 decided to hold a selection for the posts of Conductors,
Head ~~St~~ Ticket Collectors and Senior Ticket Examiners in
the grade of Rs. 1400-2300. The quantum of vacancies was not
notified. 142 candidates were called-for to appear in the
written test. It is contention of the applicants

in the application that favouritism ^{was} were shown to certain candidates. The examination was conducted and mass copying was done. The answer books ^{were} ⁱⁿ not proper in order. Though, the applicant and the union protested for the same, but there was no proper response. The selection was also made in spite of ^{available} protest. The applicants and the union avoided for action by the respondents for one & half years, but no action was taken, hence this application.

3. In the Counter filed on behalf of the respondents, the allegations made in the application are denied parawise. It is stated that the applicants were allowed to appear in the selection for the post of STE/Head T.C/Conductor in the grade of Rs. 1400-2300/- (RPS). None of the applicants qualified in the selection. The selection was made correctly. The examination was conducted properly under the supervision of responsible officials. The seniority of the some of the candidates have been changed in view of the judgment of C.A.T. Therefore, the allegations made in the application regarding certain changes in the seniority, is not correct. The answer books were properly valued. The department conducted the enquiry ^{with regard to alleged} which recorded unfairness in the examination, but no evidence was found. Lastly, it is stated that there are no merit in the application and the same has to be dismissed.

4. This is a old case of the year 1990 and this was listed for hearing before the Special Bench with proper notice. There is no representation for the applicant. Hence, we have heard the learned counsel appearing for the respondents and have also perused the Application, Counter, Rejoinder and Annexures.

5. The point for consideration is whether the prayer of applicant is to be granted or not ?

6. This is a case where the applicants made huge allegation stating that some of the candidates, who appeared in the examination, were shown favouritism by the respondent no.2 & 3. It is also there allegation that the applicants and the union asked for thorough enquiry into this matter by the vigilance department or the C.B.I. It is pertinent to note that this assertion of the applicants is denied in the Counter filed by the responsible official. This is a case where the entire ^{facts} case are in dispute. In writ petition like this one, the Tribunal can't make a rowing enquiry and assess the method in which the examination was conducted. The applicants have a right to be considered in the selection. Whether the examination is conducted according to the rules or not may be a subject matter that one can agitate in court of law, but whether the examination was conducted properly or not, whether mass copying is allowed or not, whether the marks are inflated or deflated ^{are} or the actual aspects of the case, ^{by different form} ~~being recorded sufficiently confirmed by the same is entirely different as sought by the applicant. The voice of the vigilance commission is only whether such enquiry is to be done properly or not, is left for the authorities and the Tribunal cannot give any direction because of the disputed facts.~~

7. The very prayer in this case is so vogue. The Tribunal is not expected to call all the answer books and scrutinise all the answer books, cannot come to the conclusion whether any mass copying has been done or not. Hence, this is not a case where the Tribunal can interfere as sought by the applicants. This is a matter related to examination of the year 1988. By any stage of imagination, the Tribunal cannot interfere at this stage with any selection already made in pursuance of the said examination unless the ^{any}

positive right is said to have been violated.

8. It is left open for the applicants and the Government
clarify ~~their application~~
how to remove the dispute, in question, if any. Hence, there
are no merit in the application and the same, is, therefore,
dismissed. No costs.

Syam Sunder
MEMBER (A) 11.5.2000
LUCKNOW: DATED:
GIRISH/-

11/5/1
MEMBER (J)