

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A. No.: 135 of 2006[Patna, this Tuesday, the 16<sup>th</sup> Day of May, 2006]C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.  
HON'BLE SHRI S.N.P.N.SINHA, MEMBER [ADMN.]

1. Binod Kr. Mishra, S/o Late S.N.Mishra.  
2. Arun Kumar Jha, S/o Late A.N.Jha.

Vs.

Union of India & Ors.

Counsel for the applicants. :- Shri Shashank Shekhar.

Counsel for the respondents:- Shri N.K.Sinha, ASC..

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Heard learned counsel for the applicants and learned Addl. Standing Counsel for the respondents on admission. In the circumstances of this case, this application is being disposed of at the stage of hearing on admission itself.

2. Briefly stated, the applicants had appeared in the written examination for recruitment to the post of Junior Engineer Electrical Gr. II from the optional 25% Intermediate Apprentice quota, held on 22.10.2005 in the Danapur Division of E.C.Railway, their already being employed under the Railways. This departmental examination was taken for five posts under Intermediate Apprentice quota out of which one post was reserved for scheduled caste category candidate and the other for a scheduled tribe

candidate, three vacancies being for general candidates.

3. The applicants claim that in course of examination which was held on 22.10.2005, they found that corrupt practices were being adopted to which they protested verbally, yet the result was published on 15.01.2006. In the result only two persons were selected against five posts and out of them one Sanjay Kumar was selected under general quota though he belonged to scheduled caste.

4. The applicants have claimed that they had filed a representation against the acts of omissions and commissions in holding the examination which is at Annexure-5. However, no date of the complaint has been given in this annexure.

5. Thereafter, one of them received a reply from the Vigilance Department [Annexure-6] requiring the applicants to inform as to whether they had sent the complaint letter and whether that letter was bearing their signatures. At the same time it was hoped that they would help the Railway administration in the matter of inquiry.

6. It is on account of this Annexure-6 that the applicants have claimed that a Vigilance inquiry was initiated.

7. The applicants have prayed to declare the process of examination to be void and to quash the result of the examination as also to restrain the selected officials from joining the training.

8. Pointing out the written statement filed on behalf of the respondents, the learned counsel for the respondents submits that the letter of complaint was not dated though this was received by the Deputy General



Manager [Vigilance] on 13.01.2006 which made it clear that this was sent after the result was published and the applicants did not find their names therein. Learned counsel in that context has argued that if the applicants had noticed any malpractice in the conduct of examination, they should and could, not have kept mum till the publication of the result, rather they should have raised their objection just after conclusion of the examination.

9. Learned counsel also submitted, pointing out para 7 of the written statement that even though Annexure-6 letter was sent to the applicants, till date they have not sent any reply to that. Pointing out para 8 of the written statement the learned Addl. Standing counsel categorically submitted that no vigilance inquiry upon the allegations was pending or was contemplated. It has been claimed that the examination was conducted fairly.

10. In so far as selection of a scheduled caste candidate to the general quota is concerned, the learned counsel for the respondents submitted that under rules and under judicial decisions a candidate of the reserved quota can succeed, on merits, for the posts <sup>meant</sup> for general candidates, but not vice-versa and if a reserved category candidate succeeds against general quota, that post will not be deducted from the posts reserved for the category of that candidate.

11. Therefore, what is before us is just an unsubstantiated claim against conduct of an examination, in all probability sent after publication of the result whereas the respondents clearly stated that no vigilance inquiry was found necessary, nor any held, nor any was contemplated.

12. In that view of the matter, we do not find any merit in this



4.

OA 135 of 2006

application which is dismissed. No costs.

  
[S.N.P.N.Sinha]/M[A]

  
[P.K.Sinha]/VC

skj