

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

CASE NO:

199

T.A. NO: 169/87

DATE OF DECISION 8-4-92

Shri Kisan Waman Wagh and Anr. Petitioner

Advocate for the Petitioners

Versus

Union of India and 3 others. Respondent

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice Chairman.

The Hon'ble Mr. M.Y. Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? N
3. Whether their Lordships wish to see the fair copy of the Judgement ? N
4. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(U.C. Srivastava)  
Vice Chairman.

mbm\*

(B)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Transfer Application No. 169/87

Shri Kisan Waman Wagh and Another ... Applicants.

Vs.

Union of India and three others. ... Respondents.

CORAM: Hon'ble Shri Justice U.C. Srivastava, Vice Chairman.  
Hon'ble Shri M.Y. Priolkar, Member (A)

Appearance

JUDGEMENT

Dated: 8/4/92

¶ Per Shri Justice U.C. Srivastava, Vice Chairman. ¶

This is a transferred case. The applicant filed a Writ Petition (No. 3202/1986) before the High Court praying for issuance of quashing the order dated 25.9.1986, as well as the provisions of Rule 216 of the Indian Railway Establishment Manual and declare that the procedure adopted by the selection Committee in selecting the candidate was ultra vires under rule 216 of the Indian Railway Establishment Manual. The dispute between the applicant and the persons so selected who were members of Schedule Casts for the post of Office Superintendent. There is no denial of the fact that the post is a selection post and accordingly a selection committee was constituted and applicant who was not selected and the respondent was selected and the applicant apart from the intimation that the correct marking has not been given has challenged the selection on the grounds that the standards of selection was totally diverse of the day to day performance of the candidate and the applicant has done very well in the written and viva voice examination, the selection committee which was constituted was not a duly constituted committee. So far the constitution of the committee is concerned, it has been contended that the

: 2 :

Should have insisted committee of officers of Junior Administrative rank. In this connection he has relied on the case decided by the Hyderabad Bench of the Central Administrative Tribunal reported in ATLT 1987 Vol. II page 46. The case has been over-ruled by the Full Bench and it has been held that the <sup>Senior personnel</sup> said officers can become a member of the selection committee. Accordingly this ground is without any substance. So far the selection is concerned the selection was by the departmental promotion committee consisting of Senior Officers. No allegation, of malafides bias and favour has been made against the members of the selection committee, as such it cannot be accepted, that the members of the selection committee went astray and made selection arbitrary or did not <sup>look</sup> at the respective merit of the candidates. Lastly it was contended, the applicant in fact succeeded in the written examination and viva voce but wrongly it has been pleaded that he did not receive the requisite number of marks. There is a presumption that the official work has been done in normal course but the said presumption can be repelled in the written statement, marks secured have been given on the basis of marks so secured, the applicant could not have succeeded. There is no reason to disbelieve the marks so mentioned in the written statement in the absence of any material or specific <sup>If true</sup> ~~assertions~~ ascertain, accordingly we do not find any merit in the case. However we do observe that in case the applicant finds that there <sup>is</sup> ~~are~~ no correct marking and what has been stated in the written statement is not correct it will be open for him to approach this Tribunal. On these circumstances it is not necessary to go into the question of validity of rules. With these above observations application is disposed of. No order as to costs.

M.Y. PRIOLKAR  
(M.Y. PRIOLKAR)  
MEMBER (A)

U.C. SRIVASTAVA  
(U.C. SRIVASTAVA)  
VICE CHAIRMAN