

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.146 of 1986

Shri Omprakash Varma,  
307 Amit Apartment,  
Navghar, 59 Anand Nagar,  
Vasia Road (West),  
Dist; Thane

.. Applicant

V/s.

1. Union of India  
through the Secretary,  
Ministry of Railways,  
New Delhi.
2. General Manager,  
Central Railway,  
Bombay V.T.,  
Bombay.
3. The Chief Personnel Officer,  
Central Railway,  
Bombay V.T.  
Bombay.

.. Respondents.

Coram: Hon'ble Member(A), Shri Ajay Johri  
Hon'ble Member(J), Shri M.B.Mujumdar

Appearance:

1. Applicant in person
2. Shri Chanchalani,  
Asstt. Personnel Officer  
for the respondents.

JUDGMENT:-

Date: 23.2.1988

(PER: Shri Ajay Johri, Member(A) )

This is an application under Section 19 of the Administrative Tribunals Act, 1985. The applicant has challenged an order No.500 No.242/1/84 of 12.12.1984 passed by the Chief Personnel Officer, Central Railway announcing formation of a panel for the post of Assistant Hindi Officer. He has prayed for the relief that the results declared by the

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impugned order empaneling <sup>34</sup>Ms. Chauhan and Mishra for the for the promotion to the post of Assistant Hindi Officer be declared null and void and their promotions stuck down and the respondents directed to hold fresh selection on the basis of correct vacancies and rules.

2. The applicant has at the outset said that he had made representations against the impugned order of 12.12.84 but they were brushed aside and ignored. Since this Tribunal was not in existence at that time, even though the application is barred by time, it may be considered by condoning the delay to the extent of three years as the application has been <sup>34</sup>represented expeditiously before the Tribunal after it came into existence.

3. The applicant was promoted as a Hindi Superintendent in 1979. He was further promoted as Assistant Hindi Officer on ad-hoc basis during the period 19.1.80 to 6.7.1980. Thereafter he was <sup>34</sup>again <sup>34</sup>promoted on ad-hoc basis on 27.9.80 and continued to work as Assistant Hindi Officer upto 12.5.1982. He was given adverse remarks by one Sri Sirohi who was his superior officer. He represented against them. Except for these remarks his reports had been above average and commendable. When he was working on ad-hoc basis as Assistant Hindi Officer a selection was held for preparation of a panel of Assistant Hindi Officer. He was, however, not brought on the panel as he was failed in written test. The said Sirohi who was against him kept on giving him adverse remarks and he kept on representing against them but no final orders were conveyed <sup>34</sup>in his representations <sup>34</sup>. There was another selection in 1984. Though there was only one vacancy available, the selection was held for three vacancies.

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Had the selection been made for one post it would not have affected him as he was still in the Zone of consideration. So the holding of selection for three vacancies was done to favour his juniors and two of them namely Chauhan and Mishra were empanelled. If there was only one vacancy only Chauhan would have been empanelled and not Mishra. Thus Mishra got undue favour. Against temporary vacancies only senior persons are promoted and he should have been given the chance.

4. The respondents have, in opposing the application, said that the appointment to the post of Hindi Officer is on the basis of selection. The candidates have to secure 60% marks each in professional ability, <sup>or viva voce,</sup> record of service and also aggregate and those who get 80% and above are graded as outstanding and are placed at the top of the panel, <sup>or by</sup> which others are listed according to seniority. In 1982 the applicant failed in the written examination while in the 1984 selection the applicant could not qualify in the viva voce <sup>or record of service</sup> and aggregate. Even if he would have got more marks in the record of service his performance in the viva voce and aggregate was below the mark. There are also no allegations of malafides or arbitrariness against the Departmental Promotion Committee. The application was also barred by limitation. The respondents have also denied any knowledge of any enmity between Sri Sirohi and the applicant. According to them there were three vacancies and senior most 10 persons were called. The panel formed was not unjust. It was formed by a duly constituted selection committee. The non selection was

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not due to the adverse entries.

5. In his rejoinder the applicant has reiterated his earlier submissions and made an effort to justify the delay in filing the application.

6. We have heard the applicant and the Assistant Personnel Officer, Central Railway on behalf of respondents. The applicant contended that the selection was vitiated because the selection committee had taken into consideration certain adverse remarks in the Confidential reports of 1981-82, 1982-83 and 1983-84 against which the applicant had represented ~~but~~ the representations had not been disposed of by then. He also referred to the bias on the part of one of the members of the selection committee who was unhappy with him because he did not oblige him by doing some private work. According to him the selections made in 1984 were also irregular because the members of the selection committee did not apply their minds independently because there is only one <sup>mark</sup> ~~mark~~ sheet where the marks have been entered. These were repelled by the Assistant Personnel Officer on grounds that there was no bias ground taken by the applicant earlier and the marks are allotted separately if there is no consensus amongst the members. In respect of the confidential reports, he said that even if marks in the record of service are taken as 60% the applicant does not stand to be selected. We have also perused the selection committee proceedings.

7. We will first consider the application on merits. There is no doubt that a confidential report that has been represented against cannot be taken into account if the representations have not been disposed of. At the relevant

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time the representations had not been disposed of. They were disposed of <sup>in</sup> ~~on~~ 1987 only. Thus the respondents action in giving marks on record of service based on the reports which had not been finalised was incorrect. But even if we give benefit to the applicant of maximum marks that had been allotted to any candidate in that selection, the applicants' aggregate does not reach 60%. So he could not have been selected even if this position had been reassessed with maximum advantage to him.

8. The next contention was regarding the alleged enmity of Shri Sirohi who gave adverse remarks to the applicant and the bias of one of the members of the selection committee. We do not find that the applicant has been able to make out a case of malafide or bias on cogent and concrete grounds. His contention is devoid of any force. Feeble material vaguely referred by him at the bar for building up his case, without even pleading them in the plaint, cannot improve his case. There pleadings can at best be termed as after thoughts and no <sup>in cre-</sup> ~~ev-~~ evidence can be given to him.


3 ✓ 9. Lastly, the applicant is challenging a selection held in 1984 and praying for quashing of selection of two persons and striking down their promotions. The reasons given by the applicant are that since the Tribunal did not exist then he did not seek any legal remedy. We cannot agree to such a submission. The legal remedy was open to him if he was aggrieved by his non selection but he did not invoke it. His application is thus hopelessly time barred. Repeated representations do not stop the running of time. We do not find sufficient and good reasons to condone the delay. Thus even on this ground the application is liable to be

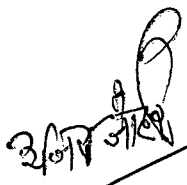
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rejected.

10. The applicant has in his pleadings said that his working was satisfactory and he had received commendations during the period. A person cannot be a judge in his own cause. He has to be judged by his superiors and cannot claim relief on the ground that he thinks himself to be efficient and fit for selection. It is not his case that those who were selected in 1984 did not possess the requisite caliber and competence or the selection committee lacked competence.

11. In conclusion, we do not find any merit in the application. It is also barred by limitation. We, therefore, dismiss the <sup>petition</sup> ~~case~~. Parties will bear their own costs.

  
(M.B. Mujumdar)  
Member(J)

  
(Ajay Johri)  
Member(A)