

Central Administrative Tribunal, Mumbai Bench

O.A. No.130/1999

Mumbai this the 27th day of January, 2004

Hon'ble Mr. Kuldip Singh, Member (A)
Hon'ble Mr. S.K. Naik, Member (J)

Shri S.V. Agnihotri
Chief Personnel Inspector
(Gazetted Section)-Office
or the Chief Personnel Officer,
Central Railway, Mumbai Bench CSTM-Mumbai-1. ..Applicant

By Advocate: Shri K.B. Talreja.

Versus

1. The Union of India
Through the General Manager,
Central Railway, Mumbai CSTM,
Mumbai-1.
2. The Dy. Director Establishment
(P-Gazetted)
Government of India,
Ministry of Railways,
Railway Board,
New Delhi. ..Respondents

By Advocate: Shri S.C. Dhawan.

ORDER

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant has filed this OA seeking a direction to the respondents to follow the directive of the Railway Board and form a panel of the Assistant Personnel Officers Group 'B' posts based on original assessed vacancies as notified and the applicant be considered for empanelment if otherwise found suitable. The applicant had not been considered because of reduction of vacancies from 14 to 10 according to the seniority.

2. The respondents had contested the OA by filing the counter-affidavit. The Tribunal while presided over by the Co-ordinate Bench passed orders on 25.10.2002 whereby Hon'ble Member (J) dismissed the OA holding that the respondents could reduce the vacancies because of subsequent development whereas Hon'ble Member (A) held that whenever a notification is issued

specifying the number of vacancies to be filled up and a written examination is conducted in pursuance thereof and a viva voce is held, the number of vacancies already intimated cannot be reduced and since in this case the selection had already been finalised and selection had also not been cancelled so the applicant ought to have been empanelled provided he was found fit otherwise as per the number of vacancies already intimated under the Notification. Thus there was a difference of opinion between the Presiding Members so the matter was referred to a Third Member.

3. The Hon'ble Third Member after hearing the parties held that the respondents were within their right to review the vacancies and reduced the same from 14 to 10 because of the subsequent development particularly with regard to enhancement in the age of retirement and found that reviewing of the vacancies from 14 to 10 as per Railway Board's letter dated 14.5.1998 cannot be said to be violative or bad on account of clarification issued on 14.6.1998. Thus the Third Member agreed with the conclusions arrived at by the Member (Judicial). So in view of these findings we find that majority had reached at a conclusion that the respondents had a right to reduce the vacancies from the number intimated earlier in the Notification.

4. So in view of these circumstances we are of the considered opinion that this Tribunal has to go by the majority decision and ~~that~~ the majority decision ~~is~~ that the respondents have a right to review/reduce the number of vacancies. Since the applicant's case depended upon the plea that the respondents has no right to reduce the vacancies which has not found favour with the majority opinion, as such OA has to be dismissed.

5. In view of the above, OA has no merits and the same is dismissed.

No costs.


(S.K. Naik)
Member (A).


(Kuldip Singh)
Member (J)

Rakesh