

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 993/99

Date of Decision : 5th January 2001.

Indrapal Singh Applicant.

Applicant in person Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Shri V.S.Masurkar Advocate for the
Respondents.

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the Reporter or not ? yes
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

yes

(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.993/99

Dated this the 5th day of January 2001.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Indrapal Singh,
working under Sr.D.E.E.
(TRS) Kalyan as Revitter
T.No. 564.

... Applicant

Applicant in person

V/S.

Union of India through

1. General Manager,
Central Railway,
Mumbai CST, Mumbai.
2. Sr.D.P.O., Mumbai Division,
Central Railway

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "(1) The selection vide circular BB/P/620/ELDR/
Rankers be declared on illegal and void.
- (2) The applicant be declared as an eligible
candidate under SC/ST category and the
appointment be done under the guidance of
the Board.

Sign, .2/-

- (3) Pending the hearing and disposal of the case, the posting of the selected candidate be stayed.
- (4) Such other just and proper order, the court deems fit be granted in favour of the applicant.
- (5) But in reality no candidate SC/ST is selected for promotion in the penal of apprentice mechanic moreover the column in the respective table SC-Nil and ST-one. However, ST candidate has not passed in written examination. Hence, the post remain not filled.
- (6) Thereafter, the applicant was invited for appearing in written test. The applicant has successfully passed the written examination/Test, even then the applicant is senior to candidate listed at Sr.9. It is crystal clear that the applicant is superseded. The applicant is put to greater inconvenience and injustice. Whenever the applicant stood as highly qualified and possessed diploma in (1) I.T.I. (2) Worker Education Diploma (3) Leadership Devp. Course Diploma (4) Worker Teachers Diploma. (5) B.A. LL.B.

2. Notification dated 13.5.1998 was issued vide Sr.DPO Mumbai CST for recruitment of Apprentices (Mechanic) (EL) Rankers from Serving Artisian Staff. The applicant who belongs to SC cadre applied for the same, whose quota being 25% of the posts from the artisian staff. Written Examination was held and he was declared successful. But in viva-voce held on 13.4.1999, he could not succeed.

3. The grievance of the applicant is that the Notification dated 13.5.1998 did not mention the total number of vacancies, number of posts reserved for SC/ST category to which he objected vide letter dated 25.5.1998 but the respondents failed to reply the same. In viva-voce he was declared failed intentionally on account of the fact that he leads the Union activities. Hence, this OA. for the above said reliefs.

Sign

4. The respondents have contested the claim alleging that the penal of the selected candidates was declared and operated, there was no vacancy for SC/ST cadre, the applicant who has appeared in the said examination, declared successful in written test but failed in viva voce is estopped from challenging the same on the principle of estoppel. Hence, prayed for dismissal of the OA. along with the cost.

5. It is true that the Notification dated 13.5.1998 did not state the total number of vacancies and also the vacancies reserved for SC and ST. It is also true that reservation upto 15% and 7-1/2% for SC and ST respectively is to be applied. During the course of arguments, there remains no dispute between the parties that the total cadre being 47 and the rankers quota to which the applicant belongs, the share comes to only two and the said vacancies were already filled. Hence, there were no vacancies for SC candidates. In such circumstances, absence of the fact for SC category in the Notification is of no consequences.

6. The total vacancies are also not included in Notification it deserves to be included but having objected to the same vide objection dated 25.5.1998, the applicant appeared in the selection, actually participated in the selection and was declared successful in the written examination held on 11.2.1999 but could not be successful in viva-voce held on 13.4.1999. In such circumstances, he himself by his own conduct waived his right to challenge the same on the principle of estoppel.

S. J. M.

..4/-

7. The grievance of the applicant is that he has not been declared successful in the viva-voce as he belongs to SC category and he is leads Union activities. We are not inclined to agree with the applicant for the reason that if he has some grievance in this respect, he must have not appeared for the examination itself. After being declared unsuccessful, he is not entitled to challenge the same.

8. The subsequent institution of DAR proceedings against the applicant, it is suffice to state that it being a seperate cause of action, the applicant is free to challenge the same, if he is agrieved in respect of the same.

9. In the result, OA. has no merit. It is liable to be dismissed and is dismissed accordingly with no order as to costs.

Ac. Dr. -
(S.L.JAIN)
MEMBER (J)

mrj.

B.N. Bahadur

(B.N.BAHADUR)
MEMBER (A)
05-01-07.