

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
* * * * *

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 OCT 1988

APPLICATION NO.

84

/ 88(F)

W.P. NO.

Applicant(s)

Shri S. Yates
To

1. Shri S. Yates
C/o Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
2. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Sreenivasanagar II Phase
Bangalore - 560 050
3. The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023
4. The Divisional Mechanical Engineer
Southern Railway
Bangalore Division
Bangalore - 560 023

v/s The Divisional Personnel Officer, Southern Rly,
Bangalore Division, Bangalore & 6 Ors

5. The Divisional Railway Manager
Southern Railway
Bangalore Division
Bangalore - 560 023

6. Shri Venkataraju

7. Shri K. Muthyaliah

8. Shri S. Khaderbasha

9. Shri M. Palani

(Sl Nos. 6 to 9 -

Train Examiners
C/o The Divisional Personnel Officer
Southern Railway
Bangalore Division
Bangalore - 560 023)

10. Shri M. Sreerangaiah
Railway Advocate
3, S.P. Building, 10th Cross
Cubbonpet
Bangalore - 560 002

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 30-9-88.

*Received
K. Walter
17-10-88*

Encl : As above

Hole
SECTION OFFICER
DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE

DATED THIS THE 30TH DAY OF SEPTEMBER, 1988

Present:

Hon'ble Shri Justice K.S.Puttaswamy .. Vice Chairman
Hon'ble Shri P. Srinivasan, .. Member (A)

APPLICATION NO. 84/1988

Shri S. Yates,
S/O R. Yates,
Fitter, Southern Railway,
BANGALORE.

Applicant

vs (Shri M.R.Achar, Advocate)

1. Divisional Personnel Officer,
Southern Railway,
Bangalore Division,
Bangalore.
2. Divisional Mechanical Engineer,
Bangalore Division,
Southern Railway,
Bangalore.
3. Divisional Railway Manager,
Southern Railway,
Bangalore.
4. Sri Venkataraju,
5. Sri K. Muthyaliah,
6. Sri S. Khaderbasha,
7. Sri M. Palani,
All Train Examiners,
working under the control of
Divisional Personnel Officer,
Bangalore Division,
Bangalore.

(Shri M.Sreerangaiah, Advocate) .. Respondents

This application, having come up for hearing,
Shri P.Srinivasan, Hon'ble Member (A) made the following:

ORDER

The grievance of the applicant in this
application is that when he was working as a Fitter in the
Southern Railway in the grade of Rs 950-1500, he volunteered



P. S. - 69

to be considered for the post of Train Examiner in the 20% quota available for in-service candidates, was admitted to the written test, but ultimately not empanelled for the post, while respondents 4-7 were so empanelled by order dated 26-10-1987 (Annexure D to the application). It transpires that subsequently, another person, namely, Shri E.M. Philips was also empanelled for the post of Train Examiner by an amended order dated 11-5-1988.

2. Shri M.R.Achar, learned counsel for the applicant, appeared for the applicant and questioned the empanelment of respondents 4 to 7 and Shri E.M. Philips and the exclusion of the applicant from the said panel on a number of grounds, after inspecting the records of the selection produced by the respondents. According to Shri Achar, selection to the 20% quota available for in-service candidates was to be made only from the post of skilled artisans in the grade of 950-1500. R-4 Shri Venkataraju was at the material time working in the highly skilled Grade I carrying a pay scale of 1320-2040, while respondents 5 to 7 namely K.Muthyalliah, S.Khaderbasha and M.Palani, were working in the highly skilled grade of 1200-1800. These respondents were, therefore, not eligible for selection to the post of Train Examiner in the 20% quota and, therefore, their selection was wrong. The respondents have produced a circular letter dated 6/8-8-1985 laying down the procedure for selection in the 20% quota in which it is stated that skilled staff those in including/highly skilled grade I and grade II could volunteer for selection in that quota. Upon this, Shri Achar very fairly gave up this contention.

3. Shri Achar then proceeded to challenge the selection on some other grounds. He contended that the

P. J. - 16

marks awarded to persons who took the written test were not rightly recorded and that, therefore, these marks should not have formed the basis of selection. Shri Venkataraju was shown to have obtained 18.2 marks in the written examination and was treated as having failed therein. The total marks for the written examination were 35 and Shri Venkataraju had obtained more than 50%. How could he be treated as having failed, Shri Achar asked? *If he had failed, how was he called for interview?*

4. Shri Sreerangaiah countered on behalf of the respondents that Shri Venkataraju had not been treated as having failed for the purpose of being called for viva voce test. There were two alternative criteria for calling persons for interview. One was that they should have obtained 60% in the written examination alone i.e. 21 marks or more out of a total of 35 allotted to the written examination. The other was that the marks awarded in the written examination together with separate marks awarded for seniority (for which marks were 15) should exceed 60% of the total marks. Though Shri Venkataraju got only 18.2 marks in the written examination, he was awarded all 15 marks for seniority because he was the seniormost person considered for selection. Thus, out of a total of 50 marks earmarked for written examination and seniority, Shri Venkataraju secured 33.2 i.e. over 60%. He thus qualified for the interview by the second mentioned criterion.

5. We are of the view that Shri Achar's challenge to the selection of Shri Venkataraju cannot be sustained. We have seen the working sheets and the code numbers given to each candidate who appeared for selection from which we are satisfied that the marks said to have



P. J. - B

been obtained by the candidates are correctly recorded.

We are also satisfied that Shri Venkataraju qualified for the interview by virtue of the second alternative criterion namely securing over 60% of the marks allotted for written examination and seniority taken together. The selection of Shri Venkataraju is, therefore, upheld and the applicant's objection thereto rejected.

6. Next, Shri Achar urged that Shri E.M. Philips was junior to the applicant in the grade of 950-1500, but still he had been preferred to the applicant for being called for interview.

7. Shri Sreerangaiah pointed out that Shri Philips had obtained 21 out of 35 in the written examination and thus qualified by the first of the two alternative criteria for being called for interview. On perusing the records, we find that Shri Sreerangaiah's contention is right. We, therefore, accept his contention and reject the applicant's complaint.

8. The next objection of Shri Achar is that Shri Palani, R-7, had secured a total of 29.35 marks in the written examination and seniority taken together i.e. less than 60%, but yet, he had been called for interview, which was not right.

9. Shri Sreerangaiah clarified that in the written examination, Shri Palani had secured 21.35 marks i.e. over 60%. He was thus qualified for the interview by the first of the two criteria mentioned above and was, therefore, rightly called for interview. The applicant, on the other hand, had obtained 17.50 marks out of 35 in

P. S. - 1/2

the written examination and 7 marks for seniority making a total of 24.50 marks. He, thus, failed to qualify by both the criteria. After perusing the records, we find that Shri Sreerangaiah's contention is correct. We, therefore, reject the applicant's complaint regarding the selection of Shri Palani.

10. Shri Achar, then, contended that the applicant had been denied the opportunity of appearing in the viva voce test, for if he had been allowed to that test, he could have secured more marks therein than the respondents.

11. Shri Sreerangaiah pointed out that according to the rules of the selection, a person who did not obtain 60% in the written examination alone or in the total allotted for written examination and seniority was not eligible to be called for interview. The applicant not having obtained 60% in the written examination or out of the combined total for written examination and seniority, he was not eligible to be called for interview. The question of giving him an opportunity for the viva voce test, therefore, did not arise.

12. We find merit in this contention of Shri Sreerangaiah and, therefore, we reject Shri Achar's contention.

13. Finally, Shri Achar submitted that in the sheets setting out the marks obtained by candidates in the written examination, as also marks awarded for seniority, there were corrections and over-writings and that, therefore, the final list setting out the marks obtained by each candidate was a "shocking list" which should not have been the basis for final selection. Shri Sreerangaiah submitted that the marks set out against each candidate represented a correct assessment and in the absence of specific malafides or manipulation,



P. S. K. S.

Shri Achar's contention that the marks noted in the records were not genuine should not be accepted. Here also, we are inclined to agree with Shri Sreerangaiah that though there may be corrections in the original marking sheet, where marks were first awarded, the applicant has not shown that there was any deliberate manipulation or mala fide action to keep the applicant out of the selection. In the absence of proof to the contrary, we must accept the correctness of records maintained in the ordinary course of official business. We have, therefore, no hesitation in rejecting Shri Achar's contention that the marks awarded to the candidates who appeared for selection were not genuine.

14. Since all the contentions raised on behalf of the applicant stand rejected, the application is dismissed. Parties to bear their own costs.



Sd/-

(K.S.PUTTASWAMY) 20/9/72
VICE CHAIRMAN

Sd/-

(P.SRINIVASAN)
MEMBER(A)

TRUE COPY

Hari
SECTION OFFICER 17/X
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL LUNCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 17 OCT 1988

To

1. Shri Sanjeev Malhotra
All India Law Journal
Hakikat Nagar, Mal Road
New Delhi - 110 009
2. Administrative Tribunal Reporter
Post Box No. 1518
Delhi - 110 006
3. The Editor
Administrative Tribunal Cases
C/o Eastern Book Co.
34, Lal Bagh
Lucknow - 226 001
4. The Editor
Administrative Tribunal Law Times
5335, Jawahar Nagar
(Kolhapur Road)
Delhi - 110 007
5. M/s All India Reporter
Congressnagar
Nagpur

Sir,

I am directed to forward herewith a copy of the under mentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr. Justice K.S. Puttaswamy Vice-Chairman/~~Member (A)~~ and Hon'ble Mr. P. Srinivasan Member (A) with a request for publication of the order in the journals.

Order dated 30-9-88 passed in A.No. 84/88(F).

*Uffred
17-10-88*

Yours faithfully,

for (B.V. VENKATA REDDY)
DEPUTY REGISTRAR(J)

O/C

Copy with enclosures forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi - 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compounds, Nungambakkam, Madras - 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta - 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex (CBD), 1st Floor, Near Konkon Bhavan, New Bombay - 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad - 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shillong Road, Guwahati - 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floors, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin - 682 001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur (MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M. Enterprises, Shri Krishna Nagar, Patna - 1 (Bihar).
11. The Registrar, Central Administrative Tribunal, C/o Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad (Gujarat).
14. The Registrar, Central Administrative Tribunal, Dolamundai, Cuttak - 753 001 (Orissa).

Copy with enclosures also to :

1. Court Officer (Court I)
2. Court Officer (Court II)

for
(B.V. VENKATA REDDY)
DEPUTY REGISTRAR (J)

*Armed
K. Venkata Reddy
17.10.84*