

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 979/95

DATE OF DECISION: 20/7/2000

Mr. Shrikant Singh & 6 Ors

Applicant.

-----Advocate for
Applicant.

Versus

Union of India & 3 Ors.

-----Respondents.

Shri V.S. Masurkar

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri A.V. Haridasan, Vice Chairman
Hon'ble Shri Govindan.S.Tampi, Member(A)

1. To be referred to the Reporter or not? *No*
2. Whether it needs to be circulated to
other Benches of the Tribunal?
3. Library.

(GOVINDAN.S.TAMPI)
MEMBER(A)

abp

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

O.A.NO.979/95

this the ²⁶ day of July, 2000.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Mr. Shivkant Singh S/o
Rampati Singh.
2. Mr. Premanand Kudalkar
s/o Vasant Kudalkar
3. Mr. Badriprasad Prajapati
s/o Nanku Prajapati
4. Mr. Mohmad Faroque s/o
Ismail Shaikh
5. Shri Omprakash Gupta
6. Mr. V.K. Mohanan
7. Ishtiaq Ahmed .Z.
C/o Omprakash D.Goswami,
Advocate High Court,
K.P.Sharma Niwas, Pipe
Line Road, Jawahar Nagar,
Khar(East), Bombay 400 051.
(None for the Applicants)

.. Applicants

vs.

1. Union of India
Through Chief Secretary,
Railway Board, Ministry of
Railway, Rail Bhavan,
New Delhi 110 001.
2. General Manager, Western
Railway, Churchgate,
Bombay 400 020.
3. Divisional Railway Manager,
Western Railway,
(E), Bombay Central.
Bombay -400 008.
4. Senior Divisional Mechanical
Western Railway,
Engineer(H)(Mandal office)
Bombay Central, Bombay -400008.
(By Advocate Sri V.S.Masurkar)

.. Respondents

O R D E R

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER(A):

Shri S.R.Singh and six others have filed this application
O.A.No.979/95, against Union of India and Western
Railway, Bombay (New Mumbai) seeking the following

...2.

Reliefs:-

- i) quashing and setting aside the results declared vide notification dt. 14.7.95(Exhibit A3);
- ii) directing the respondents 2 to 4 to recheck, re-assess and retotal the answer papers of the applicants 1 to 7;
- iii) preventing them from proceeding further unless the above rechecking is done;
- iv) scrapping the entire examination and the process as illegal and
- v) granting the cost and other reliefs, as deemed proper by the Tribunal.

2. In pursuance of notifications issued on 7.3.95 and 17.4.95 by the Sr.Divisional Mechanical Engineer, Western Railway, Bombay , examination was conducted for the post of Sr. Ticket Examiner on 27.5.95. The applicants who were present protested that though they found seal of the question paper was broken, were forced to take the examination as a few others indicated that the seal were intact. Those persons got preferential treatment and were declared passed in comparison to the applicants who were better qualified and who did better in the examination, but were failed, when the results came on 14.7.95. Two of the applicants and the Western Railway Employees Union represented against the examinations. Their main complaint was that the question paper packet seal was broken and that some irregularities were committed, including permission accorded to someone who was not eligible to apply, permitting impersonation

and that notional marks were not accorded to their seniority. In view of the above, they have suffered, plead the applicants in their O.A. filed on 11.8.95.

3. Respondents deny in their statement dated 6.3.96 the allegations and interalia state that allegations are raised about a few other employees who have not been impleaded as parties. Seal of the packet containing the question papers was in tact and was broken only 10 minutes before the examination. There were no complaints that they were tampered with and the present allegation was clearly an afterthought. Further, no candidate was permitted to rewrite the paper, as alleged. Merely because someone is officiating as Tr.Exmr., he/she cannot automatically get selection unless he/she qualifies in the examinations. Examination has been conducted properly and results declared correctly. The applicants did not secure any position, as they did not get the requisite percentage. Much of the contentions of the applicants were surmises and did not deserve any further attention, according to them.

4. In their rejoinder dt. 9.7.2000, the applicants repeat their allegations that the examination was improper, that irregularities were committed and that ineligible persons were admitted in the examinations.

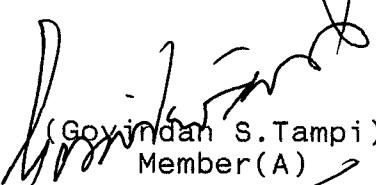
5. Shri S.P.Inamdar, learned counsel for the applicant appeared on Friday, 14.7.2000 and sought further time and said that he was awaiting the response to the rejoinder given by him. He was advised to appear in the afternoon, with indication that no further adjournment would be given. Shri V.S.Masurkar, learned

counsel for the respondents agreed to argue. The counsel for the applicants did not turn up in the afternoon, as agreed. Sri Masurkar was heard and it was decided to go ahead with the matter. It was argued by the counsel for the respondents that the applicants who had willingly participated in the examinations were raising the objection after they have failed to qualify. Their pleas had no legal force as the examinations were conducted correctly and the results were announced properly. There was no cause for any interference, argues the learned counsel.

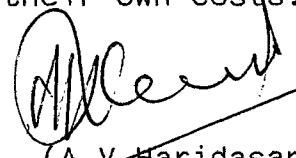
6. We have carefully considered the matter and we are convinced that the applicants have no cause. The applicants have sought to get the examination conducted by the respondents on 27.5.95 vacated on the grounds of irregularities. The examination was conducted after issue of two notifications dated 7.3.95 and 17.4.95 by the Sr. Divisional Mechanical Engineer respectively of Western Railway and Central Railway, setting down the eligibility conditions. The applicants as well as a number of others participated in the examination willingly. However, they have protested after the results declared on 14.7.95 they found that the same did not include their names. All the allegations have cropped up thereafter. It is said that the seal of the packets containing the question papers was broken, one person without the requisite qualification was admitted for the examination, one or two persons were permitted to impersonate and to rewrite the examination, applicants' better answers were not valued correctly, applicants' officiating position was not considered and they were not given any weightage etc. None of these has been proved while the respondents have shown that they have acted correctly and that allegations are not based on facts.

Thus the pleas by the applicants only remain allegations and nothing turns on them. The applicants cannot get any relief on the strength of unsubstantiated charges more so as they have been made too late in the day, after finding that their names were not found in the list of successful candidates. It is a settled position of law as laid down by the Apex Court in Madanlal Vs. State of J & K, that anyone who has acquiesced to certain facts and circumstances, and acted accordingly cannot turn round and seek redressal claiming that the said facts and circumstances did not exist. He or she is estopped in law. This is what has happened in this instance. Applicant's protest came to life only after event, i.e. the publication of the results of the examination in which they willingly and effectively participated, when they found that they have failed to qualify. If such a request, that too a request without any substantiation is permitted to hold the fort, there would be time only for unending litigations. We do not consider this Tribunal is meant to perpetuate such disputes. We are convinced that the applicants have not been able to prove any case against the action of the respondents.

7. In the result the O.A. fails and is rejected. Interim relief granted on 25.8.95 is also vacated. M.Ps No. 569/95 and 506/97 are also disposed of. Parties to bear their own costs.


(Goyindan S. Tampi)
Member (A)

njj/B.


(A.V. Haridasan)
Vice Chairman