

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.594/97

Dated this, the 13 th day of December, 2001.

Shri A.N.Tripathi ... Applicant
(Applicant by Shri S.S.Karkera, Advocate)

Versus

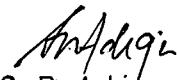
UOI & Ors. ... Respondents

(Respondents by Shri V.S.Masurkar, Advocate)

CORAM:

HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE SHRI S.L.JAIN, MEMBER (J)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library.


(S.R. Adige)
Vice Chairman (A)

sj*

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CORAM: HON'BLE SHRI S.R.ADIGE, VICE CHAIRMAN (A)
HON'BLE SHRI S.L.JAIN, MEMBER (J)

Shri A.N. Tripathi (DCMI)
Chief Commercial Manager Officer,
2nd Floor Station Building Churchgate,
Western Railway HQ, Mumbai 20. Applicant
(Applicant by Shri S.S. Karkera, Advocate)

vs.

- 1) Union of India through
General Manager Western Railway,
Churchgate, Mumbai 400 020.
- 2) Chief Commercial Manager,
Western Railway
2nd floor Station,
Churchgate, Mumbai 400 020.
- 3) Shri Sudhir Kala,
Chief Traffic Manager,
GM and OSD Office,
North Western Railway,
Jaipur (Rajasthan)
- 4) Shri G. Mohan Nair,
Chief Law Assistant
C/o Chief Claim Officer,
3rd floor,
Western Railway,
Station Building
Churchgate, Mumbai 400 020.
- 5) Jai Prakash Gour DCMI/ RTM (W.R.)
C/o Sr Divisional Commercial Manager,
D.R.M. Office, Ratlam, Western Railway,
(Madhya Pradesh).
- 6) Sh. M.L. Gadria/BVP/CCG.
C/o Chief Claim Officer, 3rd floor
Western Railway, Station Building,
Churchgate, Mumbai 400 020.
- 7) Shri Ravindra Shrivastava, DCMI/RTM
C/o Sr. Divisional Commercial Manager,
D.R.M. Office, Ratlam, Western Railway,
(Madhya Pradesh) Respondents
(Respondents by Shri V.S. Masurkar, Advocate) 2/-

O R D E R

[Per: S.R. Adige, Vice Chairman (A)]

Applicant impugns respondents' letter dated 18.6.1997 (Ex. 'A') declaring the results of the Limited Departmental Competitive Examination (LDCE), held for selections to the post of A C M, in which he does not find place.

2. Admittedly, pursuant to letter dated 3.10.1996 (Exh. A.2) respondents held an LDCE in December, 1996 ~~for~~ promotion to 5 posts of ACM in Commercial Department ~~for~~ of which four posts were in general category and 1 was reserved for SC. The LDCE consisted of written test and viva-voce. 4 general category candidates whose names are available in the impugned letter dated 18.6.1997, qualified in the written test. Respondents state that applicant failed to qualify in the aforesaid Written Test and hence, his name does not find mention in the impugned letter dated 18.6.1997 to be called for viva-voce.

3. The Applicant asserts that he had qualified in the written test 3 times in the past, ^{? and} there was no reason that he ~~would~~ not have qualified this time also. He alleges that respondent No.3, who marked Paper No.II, deliberately and malafidely passed only 4 persons who had worked under him and were from the same department/section, by manipulating the marks, but had failed the applicant.

4. It is also contended by the Applicant that candidates numbering three times the available vacancies, should have been summoned, for the viva-voce.

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..3/-

5. Respondents No.1 to 3 stoutly deny the allegations of *malafide*, arbitrariness, and manipulation. They state that in such selection the answer sheets are given code numbers and all indication of the identity of the candidates are removed before forwarding them to the Officer nominated for valuation. With this procedure, there is no scope for the officer evaluating the papers to be aware of the identity of the candidates. In view of this, there is no possibility of Respondent No.3 having favoured any one, or having manipulated the answer sheets. Further more the identity of the officer nominated for evaluation of the papers is kept strictly confidential, and applicant is put to strict proof as to the method by which ~~we~~ established the identity of the Officer nominated for evaluation. It is also stated that merely because an applicant had qualified in the Written Test earlier does not guarantee that he would qualify this time also.

6. Applicant has not filed any rejoinder denying the specific and unequivocal assertions of respondents contained in their reply, in regard to the allegations of *malafide*, arbitrariness, manipulation etc. As per settled Rules of pleadings, what is not specifically denied in the impleadings is deemed to have been accepted and as applicant has not denied in any rejoinder filed by him, the specific assertions of respondents, denying the allegations of *malafide*, arbitrariness, manipulation etc., these grounds are no longer available to applicant in the O.A.

Furthermore, merely because applicant had cleared the written test three times earlier is no guarantee that he would clear the same this time also. Applicant has not also produced any material to establish conclusively that Respondent No.3 was so inimically disposed towards him so as to want to deliberately fail him in Paper No.II despite his having done well. Applicant's counsel has relied upon Supreme Court rulings in *Biswa Ranjan Sahoo & Ors vs Sushanta Kumar Dinda & Ors* [JT 1996 (6) S.C. 515]. That is a case, where mass scale malpractices in the selection process was noticed which is certainly not the case here.

7. In the result, the O.A. warrants no interference. It is dismissed. No costs.

SLJ
(S.L.Jain)
Member (J)

sj*

Adige
(S.R. Adige)
Vice Chairman (A)