

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 493/98

Date of Decision : 5.6.2002

M.T.Chacko

Applicant

Shri H.A.Sawant

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri S.C.Dhawan

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 ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library


(B.N. BAHADUR)
MEMBER (A),

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.493/98

Wednesday this the 5th day of June, 2002.

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

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

M.T.Chacko,
Accounts Assistant,
Financial Adviser & Chief
Accounts Officers Office,
C.S.T. Mumbai.

...Applicant

By Advocate Shri H.A.Sawant

vs.

1. The Financial Advisor,
Chief Accounts Officers Office,
C.S.T.H.Q.Office,
Central Railway,
Mumbai.

2. The Director Finance (CCA),
Railway Board, Rail Bhawan,
Ministry of Railway,
New Delhi.

3. The Union of India
through the Secretary,
Railway Board,
Ministry of Railway,
Rail Bhawan, New Delhi.

... Respondents

By Advocate Shri S.C.Dhawan



1.2/-

O R D E R (ORAL)

{Per : Shri B.N.Bahadur, Member (A)}

The Applicant comes up to the Tribunal seeking the relief as follows :-

"8.(1) That this Hon'ble Tribunal may be pleased to direct/order the respondents to allow the applicant to appear in the complete examination for selection for the post of S.O., being eligible for promotion for the post of Section Officer.

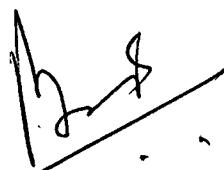
(2) To quash the circular dated 28.2.1998 (Annexure-'A-1') which is illegal, injustice and arbitrary as violation of article 14 of the Constitution.

(3) To call for records and proceeding of the examination held on 25/26.11.1997 for the purpose of verifying the marks alleged to be scored by the applicant on the basis of which the applicant is not allowed to appear for the remaining part of examination.

(4) To issue any other order in the equity and justice as deemed fit.

(5) To provide for the cost of this application from the respondents."

2. We have heard the Learned Counsel for the Applicant Shri H.A.Sawant, as also Learned Counsel for the Respondents, Shri S.C.Dhawan, and have seen all papers in the case. In short, the Applicant really is aggrieved with the modified system of examinations that is now prescribed, and followed, for promotion to the post of S.O., as per Circular dated 28.2.1998, a copy of which is at Annexure-'A-1'. The submission made by the applicant is this system which supersedes the earlier system (document at page 70 onwards) is illegal, arbitrary and violative of Section 14 of the Constitution of India. The main contention that was



argued before us as to why this is so and also taken in para 5 of the OA. was that in the system of coding and de-coding which has now to be done twice, with a period of six months intervening period, contains the danger of mistakes occurring. This will create prejudice and, indeed, as one of the reliefs sought by the applicant, he prays for verification of the marks secured by him.

3. The Respondents have resisted the claims of the applicant in a detailed reply which was depended upon by the Learned Counsel, Shri Dhawan, who argued that there is no prejudice caused either to the applicant or to anybody, by the changed system. The fact is he argued, that there was no basic change in the system in the coding and de-coding either. The system of coding and de-coding was followed earlier also.

4. We have carefully considered all papers in the case as also the oral arguments. The issue here is very simple. A change in policy has been made by the Government and has been notified and followed by the concerned. In first place, the applicant is not singled out for any solitary treatment. Agreeing that policy can be challenged before us, we have gone through the matter carefully and we do not find that there is any arbitrariness or illegality caused in change of policy, which in any case does not envisage any drastic overhaul of the policy. It is well known that in most competitive examinations when candidates who are successful in written examination or called for interview or further tests, the marks of the earlier examination/s are not disclosed at that stage, very often. This is a well established practice over decades.



5. On the point of apprehension expressed by the applicant that the system may endanger the candidates' career by the intervention of time of about six months, we see no reasonable basis for such apprehension. The system is continuing for long and we do not see how the very change being brought out will cause or enhance the danger. This is a matter that does not call for provision of reliefs of the type sought. There is no violation of any law or instructions and such claims cannot be made through judicial determination. No doubt the applicant is at liberty to take up the matter at the administrative level with the Head of the Railway administration and it is for them to take a view in the matter on merits. No directions, however, can be given or are being given by us. Consequently, the OA. is dismissed, with no order as to costs.

S.L.JAIN
(S.L.JAIN)

MEMBER (J)

B.N.BAHADUR
(B.N.BAHADUR)

MEMBER (A)

mrj.

Order/Judgement despatched
to Appellant / Respondent (s)
24/1/62