

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

✓ T.A. No. 152/92 Date of Decision: 3.2.93
GOVIND CHARAN : Applicant
T.A. No. 207/92
GOVIND CHARAN : Applicant.
T.A. No. 206/92
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T.A. No. 204/92
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T.A. No. 205/92
GOVIND CHARAN : Applicant.
✓ Mr. J.K. Kaushik : Counsel for the applicant.
✓ T.A. No. 228/92
MAHENDRA SINGH : Applicant.
✓ Mr. R.N. Mathur : Counsel for the applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.
Mr. R.N. Soral : Counsel for the respondents.

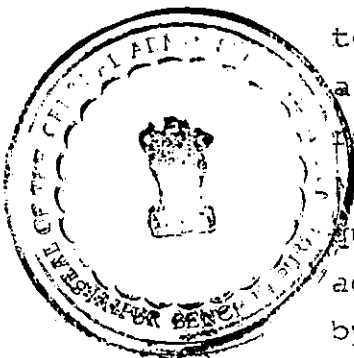
CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman
Hon'ble Mr. B.B. Mahajan, Administrative Member

PER HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER:

All the above T.As are inter-connected and involve common questions of law and fact. They are, therefore, being disposed of by this common orders.

2. A notification was issued by the Additional Chief Mechanical Engineer, Kota on 9.1.82 inviting applications for selection to the post of chageman in various trades against 25% ranker's (Promotion) quota. In this notification, it was mentioned that the method of selection would be by written test, practical test and viva-voce. After taking the written test and viva-voce, a panel of 11 candidates was notified vide order dated 21.7.82. Mahendra Singh and others who had appeared in the written test and viva-voce but not found place in the panel, filed a civil suit (subsequently transferred to the Tribunal and registered as TA No. 228/92) in the court of learned Munsif, North, Kota praying that the panel should be quashed and the respondents should be restrained from acting upon this panel. A temporary injunction was issued by the learned Munsif vide his order dated 20.8.82 (in T.A. No. 205/92) against the respondents that till the

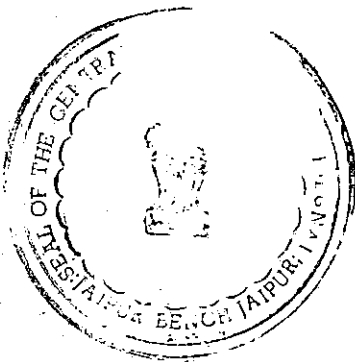


decision of the suit, no selected persons should be sent for training unless the selection procedure is completed. Govind Charan and others filed an appeal against the order dated 20.8.82 in the court of District Judge, Kota which has also been transferred to the Tribunal and registered as T.A. No. 205/92. The application for temporary injunction against order dated 20.8.82 was also filed before the District Judge which has been transferred to the Tribunal and registered as T.A. No. 204/92. The respondent, Railway authorities vide their order dated 21.9.82 (copy placed in T.A. No. 228/92) cancelled the result of the selection Govind Charan and others whose names had appeared in the panel dated 21.7.82 also filed a civil suit in the court of learned Munsif, North, Kota on 23.9.82 praying that the result of the examination should not be cancelled without hearing them. The suit was subsequently amended in which the prayer was made for issue of declaration that the order dated 21.9.82 by which the panel was cancelled was illegal and of no avail against them and they were entitled to be promoted in accordance with the panel issued on 21.7.82. In the suit filed by Govind Charan and others (TA 152/92), application for temporary injunction was rejected by the learned Munsif. An appeal against that order was filed before the District Judge, Kota, which has also been transferred and registered as T.A. 207/92. Govind Charan also filed an appeal against the temporary injunction granted by the learned Munsif on 20.8.82 in the Court of learned District Judge, Kota. The same has also been transferred and registered as T.A. 204/92. All the suits, temporary injunctions and appeal has this been transferred to the Tribunal U/S 29 of the Administrative Tribunals Act, 1985.

3. We have heard the learned counsel for the parties.

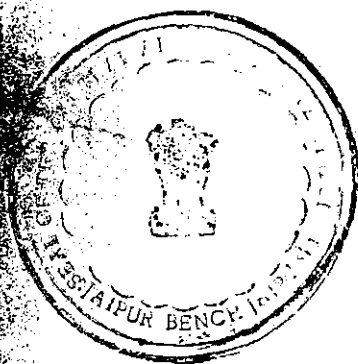
4. It is an admitted fact that in the notification dated 9.1.82 inviting applications for the post of chargehand in various trades, the method of promotion included written test, practical test and viva-voce. It is also an admitted fact that the panel dated 21.7.82 was issued only on the basis of the written test and viva-voce without taking any practical test. The question is whether the selection list was vitiated because of practical test having not been held as indicated in the notification and the order of cancellation was, therefore, valid or not. Govind Charan etc., respondents in T.A.No. 228/92 filed the copy of the letter dated 17.5.85 from

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Headquarters, Western Railways, Bombay. With that letter, a copy of Railway Board's letter No. E(NG)1-84-PM-7-6 dated 25.4.85 is enclosed in which it was clarified that for selection of Apprentice Mechanic from the category of skilled artisan the selection should consist of written test and interview only as specified in ACS 21-IREM, circulated under Board's letter No. E(NG)57/Tri/9 dated 18.3.61. None of the other parties has produced any document to show that these instructions of 18.3.61 had not been correctly incorporated in Board's letter dated 25.4.85 or that these have been modified before the selection was held in 1982. We have, therefore, to assume that instructions as clarified in the Board's letter dated 25.4.85 were in operation when the selection was held in 1982. On the basis of those instructions, there was no provisions for taking any practical test for these selections. The selection has, thus, been conducted in accordance with the instructions of the Railway Board then in force. The only infirmity in this case was that in the notification inviting applications, the practical test was also mentioned as one of the items in the process of selection. This has, however, caused no prejudice to the applicants in T.A. No. 228/92 - Mahendra Singh and Others who had all appeared in the written test as well as Viva-voce. The matter would have been different if some official had come up with the case that he did not apply for this post because the scheme of selection included the practical test or if Mahendra Singh and Others had not appeared in the viva-voce test on the ground that practical test had not been taken. Since Mahendra Singh etc. had appeared in the viva-voce it would have made no difference to the position of the contesting parties if the practical test had not been mentioned in the initial notification itself by which the applications were invited. The mere mention of the practical test in the notification inviting applications did not, therefore, vitiate the selection. In the circumstance, it was not correct for the respondent, railway authorities to have cancelled the selection test which had been conducted in accordance with the instructions of the Railway Board in force merely on the ground of this mistake in the notification.

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5. The applicants in their suit (TA 228/92), para 4(3) had also mentioned that the Interview Board which took the viva-voce test had not been properly constituted. The respondents, in their written statement, have clarified that according to the instructions of the Headquarters, the Selection Board was to comprise two senior scale officers and one Personnel Officer and the Selection Board in the instant case was so constituted. This has not been rebutted by the applicants in this T.A. - Mahendra Singh and Others.

In view of the above, we are of the opinion, that the order of the respondent, Railway Authorities, dated 21.9.82 cancelling the panel notified on 21.7.82 was not legally valid. We accordingly allow the T.A. No. 152/92 - Govind Charan & Others Vs. UOI. The order of cancellation dated 21.9.82 is set aside and the order dated 21.7.82 in regard to the selection panel is restored. The applicants in O.A. No. 152/92 - Govind Charan & Others shall now be sent for training and given appointment thereafter according to the rules. Those who qualify in the training shall be deemed to have been appointed from the date the officials in the selection conducted immediately after the impugned selection were appointed, in case any such selection has been conducted, and will be given all consequential benefits. The T.A. No. 228/92 - Mahendra Singh etc. Vs. Union of India is dismissed. All the applications for temporary injunctions and appeals against orders in those applications (T.A. Nos. 204/92, 205/92, 206/92 and 207/92) stand disposed of accordingly. There shall be no orders as to costs.

(B.B. MAHAJAN)
Administrative Member

(D.L. MENON)
Vice-Chairman

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Section Officer (Judicial)
Central Administrative Tribunal
JAIPUR Bench, JALOR