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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 13.8.93.

OA 708/92
(OA 107/88)

OM PRAKASH VERMA & 3 ORS. ... APPLICANTS.

VS.

UNION OF INDIA & ORS. ... RESPONDENTS.

COURT:

HON. MR. GOPAL KRISHNA, MEMBER (J).
HON. MR. O.P. SHARMA, MEMBER (A).

For the Applicants ... Applicants No.1
and 3, In Person.

For the Respondents ... SHRI MANISH
BHANDARI.

PER HON. MR. O.P. SHARMA, MEMBER (A).

The applicants, S/Shri Om Prakash Verma, Santosh Kumar Bansal, Shiv Bhagwan Sharma & Mohan Lal Sharma, have filed this OA claiming the following reliefs :-

"It is, therefore, most respectfully prayed that during the pendency of the application the respondents may kindly be restrained from holding any afresh written test for the post of Chief TSR on 13.3.88 or any other date in pursuance to letter dated 8.2.88 and the respondents may be further directed to maintain the status quo and respondents No.1 and 2 be further directed to hold the oral test of the applicants and other persons who were declared successful in the written test and if found suitable to promote them. Any other appropriate order which may be deemed just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicants."

2. The facts of the case are that the respondents held a written examination for promotion to the post of Chief TXR in the pay scale of Rs.700-900, on 16.8.87 and 20.9.87. The result of the written test was declared by the respondents vide letter dated 30.12.87 (Annexure A-1). 14 candidates from various Divisions of Western Railway were declared successfull in the written test and they were asked to be ready for the viva-voce test. Subsequently, a letter dated 8.2.88 (Annexure A-2) was issued by the Headquarters of the Western Railway, Bombay, stating that since one of the recognised Unions had represented regarding irregularities in the selection procedure, the written test already conducted was being cancelled. The applicants have assailed the letter dated 8.2.88 on the ground that its contents are vague and the precise irregularities committed in the selection procedure have not been specified. Further, no opportunity was given to the applicants before the said letter was issued. The applicants had all passed the ~~interview~~ ^{written} test and they have, therefore, acquired a valuable right inasmuch as there were in all 340 candidates and out of them only about 14 were declared successfull, and that on cancellation of the written test, all these 14 would be required to appear in the test once again. The applicants claim that they have passed the written test and they are now

entitled to be called for the oral test. Further, according to them, the respondents have no power to cancel the selection as such. Their representation before the authorities in this regard having not been successful, they have approached this Tribunal for necessary reliefs.

3. The respondents have filed a reply, in which they have stated that the applicants are not entitled to claim the relief sought by them.

4. The applicants had also prayed for interim relief that the respondents may not be permitted to hold a fresh test, as proposed by them by their letters dated 8.2.88 or 13.8.88. They also prayed that the candidates who had already been declared successful in the written test may be called for oral test, and if found suitable may be granted promotion.

5. The matter regarding grant of interim relief was heard by the Jodhpur Bench of the Tribunal. The final order passed by the Tribunal on the interim relief prayed for by the applicants was as under :-

"The respondents are directed to hold viva-voce test for the applicants division-wise separately and of the remaining candidates separately. The viva-voce test for a particular division be held prior to the viva-voce test of the remaining candidates for that division. List of successful candidates be also prepared separately division-wise as also a combined list."

6. Mr. O. P. Verma, applicant No.1, and Mr. S.B. Shar applicant No.3, have been heard. No other applicants are

present before us. Mr. Manish Bhandari, learned counsel for the respondents, has also been heard. It has now transpired during the arguments that the applicants' viva-voce test has already been held in accordance with the interim direction of the Tribunal. They have been declared successful in the written as well as in the viva-voce and they have already been appointed as Chief T&R. So, in so far as the matter relating to the conduct of the Selection Test is concerned, they have no grievance. They have now stated before us that they have a grievance regarding the seniority assigned to them on their appointment as Chief T&Rs vis-a-vis other employees who had appeared for the selection test subsequently. Their claim is that they should be assigned higher seniority because their selection test was held earlier. The learned counsel for the respondents has stated that there was only one selection test and the subsequent holding of any written examination was also a part of the same selection test. In so far as the matter relating to the seniority is concerned, it has not been raised specifically in the present OA. The question of seniority arises after the selection test is held and the candidates are appointed to the higher posts on their being declared successful. This OA was confined to a challenge to the procedure for the selection; it was only incidentally that the applicants had stated while claiming relief that after declaration of the written test and the viva-voce, they may be granted further promotion and may be granted all consequential benefits including seniority. This is not

a specific ground for claiming seniority over others who also have been declared as successful in the selection test. Moreover, the employees over whom the applicants are now claiming seniority during the argument have not been impleaded as parties in the OA. For all these reasons, the applicants are not now entitled, at this stage, to put forward a claim for higher seniority over others who have been appointed on the basis of the Selection Test.

6. The OA is now dismissed as having been become infructuous. However, the applicants are at liberty to file a fresh OA, if they are aggrieved by the assignment of seniority to them, in accordance with law.

(O.P. SHARMA)
MEMBER (A)

G.Krishna
(GOPAL KRISHNA)
MEMBER (J).