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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.NO. 583/92 : Date of order: 16.3.93

Ghasinda : Applicant.

VERSUS

U.O.I. & Ors. : Respondents.

Mr. Manish Bhandari : Counsel for the respondents.

CORAM:

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

HON'BLE MR. GOPAL KRISHNA, JUDL. MEMBER

PER HON'BLE MR. B.B. MAHAJAN, ADM. MEMBER

This application has been filed under Section 19 of the Administrative Tribunals Act for quashing the selections made to the post of Driver Grade "A" in Kota, Division of the Western Railways. The applicant had been promoted as Driver Grade "B" and Driver Grade "A" on ad-hoc basis. The selection for the post of Driver Grade 'A' was held on various dates during 1983 and the result of the written test was declared on 8.1.1985. The panel of Gr.A Driver was declared on 14.2.85. Some of the Drivers Gr.B including the applicant filed writ petition in the Rajasthan High Court challenging the proceedings of selection. The writ petition was allowed on 5.10.85. The operative part of the Judgment has been reproduced by the applicant himself in the O.A. and it is extracted as follows:-

" In the Result writ petitions No 308, 348, and 247 of 1985 are dismissed and they are

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not entitled to any relief. The rest of 18 writ petitions are allowed and it is directed that the respondents would hold a fresh written examination within the three months which would contain an objective type of question paper. Apart from the above mentioned 13 petitioners who have failed the writ petitions the respondents would also allow to appear in such examination all such candidates drivers who were given descriptive type of question paper and were declared unsuccessful. After holding such written test a ~~vide~~ ^{voce} shall be conducted of the successful candidates and a fresh panel prepared. Thereafter a fresh combined seniority list shall be prepared of all the successful candidates i.e. those already declared successful in the examination held previously as well as those who will ^{now} ~~not~~ be declared successful in the examination to be conducted in pursuance to the order passed in these cases and their date of selection will be treated as one ~~for~~ the purpose of ~~the~~ considering ^{the} seniority.

In the meantime status-quo shall be maintained till the fresh examination is held and its result is declared. The parties are left to bear their own costs.

After the judgment of the High Court the respondents held supplementary written test in 1986. The applicant was also called for appearing in the written test to be held on 14.5.86 but the examination was postponed on that date. The applicant has stated that he was thereafter never informed about the next date of the written examination. The respondents have, however, stated that when the applicant attended the office for appearing in the test on 14.5.86, he was informed that the test had been postponed to 21.5.86 vide Annexure R-2 dated 14.5.86. Thereafter, a fresh panel was prepared in

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pursuance of the directions of the Hon'ble High Court mentioned above.

Neither the applicant nor his counsel is present although the case was listed for hearing today. We have heard the counsel for the respondents and perused the record. The applicant had challenged the selection proceedings held in 1985 and the result of the Supplementary Written Examination was declared on 2.1.87 vide Annexure.9. However, the applicant had already challenged the selection proceedings following the written examination held in 1983 by way of writ petition in the High Court, which has been disposed of by the order dated 5th Oct.85. That order is binding on the parties including the applicant. In the grounds taken in the O.A. he has again challenged those proceedings which he cannot do now as the same is barred by the principle of res judicata. He cannot also challenge in this application the action taken by the respondents in pursuance of the Judgment of the High Court. If he was aggrieved by that Judgment the only course open to him was way to file an appeal against that Judgment in a proper Court. The point raised in the application is that he was not informed about the fresh date of Examination when it was postponed on 14.5.86. He has, however, filed no rejoinder or affidavit to controvert the averment of the respondents in reply that he had been informed

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about the postponement of the test to 21.5.86, when he had attended the office for appearing at the test on 14.5.86. This averment is also corroborated by the letter dated 14.5.86 Annexure R.2.

In view of the above, we find no merits in the O.A. and the same is hereby dismissed. Parties to bear their own costs.

G.Krishna
(GOPAL KRISHNA)
Member (Judl.)

Prabhakar J D
(B.B. MAHAJAN)
Adm. Member.

Anil