

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.No.13/91

Dt. of order: 2.12.93

Mahesh Kumar & Ors. : Applicants

Vs.

Union of India & Ors. : Respondents

Mr.J.K.Kaushik : Counsel for applicants

Mr.Manish Bhandari : Counsel for respondents

CORAM:

Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member(Adm.).

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Accountability is the backbone of the democracy and masters should not suffer on account of the lapses on the part of the servants. Citizens are masters and public servants including the political representatives, bureaucrats and others are the servants of the citizens.

2. In the instant case the respondents issued circular dated 21.5.86 (Annx.A-2) inviting applications and all the applicants appeared. Vide notification dated 21.9.89 (Annx.A-1) all proceedings connected with recruitment of Apprentice Artisans in mechanical department taken in lieu of the notification dated 21.5.86 were cancelled. The respondents have taken the ground that the CME in letter dated 10.7.85 had stressed for recruitment of I.T.I. or course completed ~~xxx~~ apprentices against 25% quota from open market. By this the respondents wanted to impress that the matriculates should not have been allowed and they have wrongly been allowed. The other grounds raised in the application is that ~~xxxxxxx~~ large number of ^{irregularities} and irregularities were committed and even persons who have not applied upto the last date ~~for~~ receipt of the applications were allowed and even on the date of the examination four persons bearing Roll Nos.3413 to 3416 were allowed to appear though they had not

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applied. It was also submitted that the list was not prepared according to the rules and the applicants have also not been segregated to show that the persons are of the general category or of the reserved community. Roll Numbers were also not marked on the applications as well as in the register. The photos were also not placed on the applications in large number of cases to verify whether the persons who are appearing are the same person. The submission of the respondents is that they have cancelled the examination for the reasons mentioned above.

3. As far as the first ground is concerned, the matriculate cannot be deprived of right to appear in the examination unless Rule 159 of the Indian Railway Establishment Manual Vol.I is amended. Administrative orders cannot supersede the rules till the rules are amended. The matriculates have a right to appear in the examination. The other grounds taken by the authorities are very genuine and it was a fit case for the cancellation of the examination.

4. Now the question remains ^{about} ~~of~~ accountability. Large number of candidates have appeared in the examination including the applicants. There was no mistake on their part and they had to suffer on account of the ^{illegalities and irregularities} ~~mistake~~ committed by the officers of the Railway department. The officers of the Railway Department who committed illegalities and irregularities are accountable to compensate the applicants who have suffered due to cancellation of the recruitment proceeding. The respondents should have taken action against the officers who are responsible for holding the examination in violation of the rules and who are responsible for conducting gross illegalities and irregularities.

5. We direct the respondents to fix the responsi-

bility of the officers who apparently committed irregularities in the recruitment proceedings. The respondents should given an opportunity of being heard to ~~that~~ ^{those} officers. After hearing them, if they find ^{them} guilty, they should fix their responsibility for the irregularities. ^{illegals and} committed. [^]

//As far as the applicants are concerned, we direct that Rs.300/- should be paid to each applicant as damages on account of wastage of ^{his} time, expenditure incurred and inconvenience caused to him. This amount should be paid by the Railways to the applicants within a period of one month from the date of receipt of a copy of this order. We further direct that this direction should also be extended to those persons who have not approached the Court, but have appeared in the ^{applied} examination. We further direct that the compensation paid to the persons participating in the recruitment proceedings should be recovered from the officers who were responsible for the irregularities in a suitable ~~pro-~~ ^{proportion} position to be fixed by the respondent Railways. Responsibility of the officers should be fixed within two months from the date of receipt of a copy of this order after giving them an opportunity of hearing. The compensation paid to the aggrieved applicants should be realised from the officers responsible for the irregularities within a period of six months. A compliance report should be furnished to the Tribunal thereafter.

6. The O.A. is disposed of accordingly with no order as to costs.

(O.P.Sharma)
Member (A).

(D.L.Mehta)
Vice Chairman.