

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.121/93

Date of order:22.9.1999

Gordhan Lal Yadav S/o Shri Dalla Ram aged about 54 years R/o Christian Colony Phulera presently posted as Diesel Mechanic-I, Diesel Shed, Phulera, District Jaipur.

...Applicant.

Vs.

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Ajmer.

...Respondents.

Mr.Vinod Goyal, Proxy counsel to Mr. R.N.Mathur, counsel for the applicant

Mr.Manish Bhandari, counsel for the respondents

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Per Hon'ble Mr. S.K.Agarwal, Judicial Member

In this Original Application, the applicant makes a prayer to call for the records pertaining to the examination and written test dated 27.1.1993, may be cancelled and respondents may be directed to conduct fresh written test. It is further prayed that copies of the applicant and copies of all other persons whose names have been included in the result dated 27.1.1993 may kindly be summoned and perused and appropriate order may be passed.

2. The case of the applicant is that respondent No.2 issued a notification to invite applications from eligible persons for the post of Diesel Chargeman. Applicant being eligible to appear in the selection test had also appeared in the written test which was

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conducted on 23.6.1992. The aforesaid written test was made de-novo and again a written test on 12.10.1992 was conducted. The applicant appeared in that written test and result was declared on 27.1.1993 but the applicant was not declared as successful. Therefore, the applicant sought the relief as mentioned above.

3. Reply was filed which is on record. In the reply it has been stated that this OA is devoid of any merit and liable to be dismissed.

4. Heard the learned counsel for the parties and perused the whole record.

5. In Om Prakash Shukla Vs. Akhilesh Kumar Shukla and others reported in AIR 1986 SC 1043 the Lordships' of Hon'ble Supreme Court had held that the petitioner having appeared for the examination without protest and filed petition only after realisation that he would not succeed in the examination should not have been granted any relief in the petition.

6. In Madan Lal and others Vs. State of Jammu and Kashmir and others reported in (1995) 3 Supreme Court cases 486, their Lordships of the Hon'ble Supreme Court observed as follows:

"It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he can not turn round and subsequently contend that the process of interview was unfair or the Selection Committee was properly constituted."

7. In the case of University of Cochin Vs. N.S.Kanjoon Jamma and others etc. reported in 1997(2) SLR 606, the Hon'ble Supreme Court pointed out that the first Respondent also had applied for and sought

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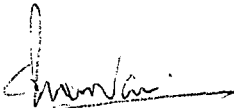
selection but remained unsuccessful. Hence, the Court held that having participated in the selection, she was estopped to challenge the correctness of the procedure adopted by the selection committee.

8. The same view has been taken by the Himachal Pradesh High Court (Division Bench) in C.W.P. No.312 of 1989 decided on 22.5.1997 which runs as follows:

A person who had participated in the process of selection for promotion and having failed therein can not challenge the promotion policy principle of estoppel applicable - validity of the procedure adopted for the purpose of granting promotion can not be challenged."

9. In view of the law laid down by the Apex Court of the country and catena of judgments by High Courts and Central Administrative Tribunal, the applicant has no case for interference by this Tribunal and this Original Application is devoid of any merit and liable to be dismissed.

10. We therefore dismiss this Original Application with no order as to costs.


(N.P.NAWANI)

Adm. Member


(S.K.AGARWAL)

Judicial Member