

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH
JAIPUR

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Date of Order : 01.06.2001.

O.A.NO. 277/1993

1. R.K.Mahavar S/o Shri Nenu Ram, aged about 32 years, R/o Gram Sogaria, Kota, presently posted as T.C.M. II in the office of TCM Control Test Room, Western Railway, Kota.
2. Amba Lal S/o Shri Chaturbhuj, aged about 30 years, by caste Meena, R/o Railway Quarter 305 B Type II Shyamgarh, W.R. Kota presently posted as TCM Telecommunication Maintainer Gr.II posted in office of Chief Tele Communication Inspector, W.R., Shyamgarh, Kota Division.
3. B.L.Dholpuria S/o Shri Karsaram, aged about 30 years, R/o Quarter No. 17/4, P.W.D. Colony, Vigyan Nagar, Kota, presently posted as T.C.M. in the office of Chief Tele Communication Inspector (M), Kota.

.....Applicants.

VERSUS

1. Union of India through General Manager Churchgate, Bombay.
2. Divisional Railway Manager, W.R., Kota.
3. Sr. D.S.T.E., W.R., Kota.
4. Shri H.N.Joshi, D.S.T.E., W.R. Kota, C/o D.R.M. Office, W.R., Kota.
5. Shri Jagdish Prasad Vijay, T.C.M. Gr. I under CTCI, Shyamgarh (M.P.), W.R. Shyamgarh.

.....Respondents.

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Mr. P.P.Mathur, proxy counsel for Mr. R.N.Mathur, counsel for the applicants.

None is present for the respondents.

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CORAM :

Hon'ble Mr.Justice B.S.Raikote, Vice Chairman
Hon'ble Mr.Gopal Singh, Administrative Member

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Capas

ORDER

PER MR.GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicants, R.K.Mahavar, Ambalal and B.L.Dholpuria, have prayed for quashing the result dated 12.5.1992 at Annex.A/1 and also for quashing the appointment of Shri J.P.Vijay (Respondent No.5). The applicants have also prayed for a direction to the respondents No. 1 to 3 to promote them on ad hoc basis considering them as successful in the trade test result of which has been declared vide Annex.A/1.

2. Applicants' case is that they are holding substantively the post of Tele Communication Maintainer (TCM) Grade II in the Kota Division of Western Railway. The respondent department had conducted a trade test for promotion to the post of TCM Grade I result of which was declared on 12.5.1992 (Annex.A/1). However, applicants' name do not figure in the list of successful candidates. Applicants submitted a representation on 14.5.1992 (Annex.A/3) and also raised the grievance through their trade unions. The representation of the applicants was replied to by the respondents vide their letter dated 14.3.1993 (Annex.A/2). The applicants have also alleged irregularities in the conduct of the said trade test and it has also been pointed out that the vigilance department had also investigated into the matter. Applicants have also alleged mala fide against Shr. H.N.Joshi, respondent No. 4, mentioning that Shri Joshi was not favourably disposed of towards the employees belonging to the scheduled caste/scheduled tribe candidates. Hence, this application.

3. In the counter filed on behalf of the official respondents as also the respondent No.4, the respondents have denied the averments

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made by the applicants. It has been pointed out by them that the applicants had appeared in the trade test for promotion to the post of TCM Grade I and had failed. It has also been pointed out that no relaxation is permissible in the trade test for the post of TCM Grade I as the post in question has been categorised as of safety category. The Department is also following reservation policy in the matters of reservation for scheduled castes and scheduled tribes. Since the applicants have failed in the trade test, they cannot question the trade test. It is also pointed out by the respondents that no vigilance inquiry was conducted in regard to conduct of the trade test and there is no adverse report from the vigilance in this connection. It has also been denied by the respondents that the respondent No. 4 has used his personal influence favouring certain employees. It is also denied that the respondent No. 4 had in any way manipulated the process of trade test in favour of Shri J.P.Vijay or to the disadvantage of the applicants. It has, therefore, been averred by the official respondents that their impugned action is absolutely judicious, legal and sustainable in law and the application is without any substance and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the record of the case carefully.

5. It is a fact that the applicants had appeared in the trade test for promotion to the post of TCM Grade I. It is also a fact that the applicants have failed in the said test. The allegation of the applicants that there were certain irregularities or manipulations done in the conduct of the said trade test, cannot be upheld as they have not submitted any documentary evidence in this regard. Moreover, the respondents have clearly stated that there was no vigilance inquiry and no adverse report against the trade test in question. The applicants

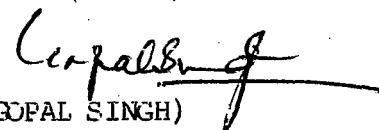
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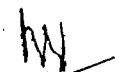
having failed in the trade test cannot question the validity of the said trade test.

6. In 1986 SCC (L&S) 644 Om Prakash Shukla Versus Akhilesh Kumar. Hon'ble the Supreme Court has held that a candidate after having appeared and failed in the selection, cannot challenge the said selection. The Principle Bench of the Central Administrative Tribunal has also held in 1990 (12) ATC 625 - Dhirendra Kumar Vs. UOI & Others that a candidate cannot question the selection process after appearing in it but having been declared failed.

7. In the light of the law as laid down above, we are of the view that the applicants cannot question the trade test held for the promotion to the post of TCM-I. Moreover, we do not find any irregularity on the part of the respondents in the conduct of the said trade test. Thus, we are of the view that the application is devoid of any merit and deserves to be dismissed.

8. The Original Application is accordingly dismissed with no orders as to cost.


(GOPAL SINGH)
Adm. Member


(JUSTICE B.S.RAIKOKTE)
Vice Chairman

mehta