

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 287/93

Date of decision: 30.11.94

R.S. TOSHNIWAL

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. R.N. Mathur : Counsel for the applicant.

Mr. Manish Bhandari : Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. B.N. Dhoundiyal, Member (Adm.)

PER HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER:

In this O.A., the applicant Shri R.S. Toshniwal, Chief Law Assistant, Railway Claims Tribunal, has challenged the order dated 11.3.1993 whereby he has been declared unsuccessful in the selection for the post of Assistant Commercial Supdt..

2. We have heard the learned counsel for the parties and perused the records.

3. The first contention of the learned counsel for the applicant is that very short time was given to him for appearing in the interview. The relevant letter was issued on 2.2.93 and was received by him on 22.2.93. He was supposed to undergo the medical examination and then reach Bombay from Jaipur. He relied on the Judgment of the Hon'ble Supreme Court in the case of Dr. S.P. Kapoor Vs. The State of Himachal Pradesh & Ors, reported in SC Service Rulings-1950-92, Vol. 2, Edn.1993, page 777, wherein it was observed that the post-haste manner in which the selections were made suggests that some higher-up was interested in pushing through the matter hastily when the regular Secretary, Health and Family Welfare was on leave and that the matter was not such as could not have been put off by a few days. He, therefore, argued that sufficient notice ~~was~~ not given to the applicant, prejudiced his chances of selection.

Another contention of the learned counsel for the applicant was that contrary to the rules, CRs of five years were considered. Lastly, that ten vacancies were available but the appointments were made against only nine of them and the applicant's claim for filling of the 10th vacancy should have been considered.

4. As regards the first point, we find substance in the contention of the learned counsel for the respondents that the applicant was called for interview in compliance of the order of this Tribunal dated 25.11.92, according to which he had to be interviewed within a period of three months from the date of the order. Moreover, a perusal of the DPC proceedings shows that what was being adjudged during the interview ~~was not~~ ^{by} the knowledge of the subject but the personality and the presentation of the candidate, as such, no specific preparation for this interview ~~would~~ ^W have been necessary. A perusal of the records also shows that the average marks obtained by the applicant in all the three main sectors, namely, written examination, service record and interview were in lower 20⁵. We are, therefore, convinced that the proceedings do not show any extraneous factors prejudicial to the applicant.

5. There is, however, some substance in the argument that even if after the declaration of the panel, some vacancies still remained, the applicant's claim against them should have been considered in accordance with his merit in the selection. We have no doubt that the respondents shall examine this issue and pass appropriate orders. We have to say this as we cannot gather either from the record or from the submissions made by the learned counsel for the respondents whether the 10th

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vacancy has been filled up or not.

6. The O.A. is disposed of with the above observations, with no order as to costs.

B.N. Dholiyal

(B.N. DHOUDIYAL)
Administrative Member

Gopal Krishna

(GOPAL KRISHNA)
Member (Judicial)