

25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.368/93

Date of order: 20/12/2000

L.N.Sharma, S/o Sh.D.N.Sharma, Head Booking Clerk, O/o
Station Supdt, Ajmer, R/o Jai Shree Sadan, Ajmer.

...Applicant.

Vs.

1. Union of India through General Manager, Western Rly, Churchgate, Bombay.
2. Divisional Rly. Manager, Ajmer Division, W.Rly, Ajmer.
3. Sh.Anil Srivastava, S/o Sh.J.P.Srivastava, Welfare Inspector, W.Rly, Ajmer, Rly.Bungalow No.85, Ajmer.

...Respondents.

Mr.P.V.Calla - Counsel for the applicant.

Mr.Hemant Gupta, Proxy of Mr.M.Rafiq- Counsel for respondents.
Respondent No.3 in person.

CORAM:

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

Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant prays for the following reliefs:

- i) to declare the communication dated 8.6.92 (Annx.A1) as illegal,
 - ii) to declare the memo dated 18.4.88 so far as it relates to respondent No.3, as illegal.
 - iii) to direct the respondents to include the name of the applicant in the panel prepared for Welfare Inspector at the appropriate place and to appointment him on the post with all consequential benefits.
2. In brief facts of the case as stated by the applicant are that he was initially inducted in service as Asstt.Booking Clerk on 11.10.74 and was promoted in the scale Rs.330-560 on
- [Handwritten signature]*

12.4.81. It is stated that the post of Welfare Inspector is ex cadre post and can be filledup by way of selection comprising written test and viva voce. It is stated that the selection is open to all eligible staff such as (a) The employee working in any grade and have completed any length of service who possess the Diploma of Labour Welfare/Social Welfare. (b) The employee who have completed with five years service in one grade below of Rs.425-640 and (c) The employee who possess the educational qualification with graduation and working two grade below of grade Rs.425-640 (R) and completed seven years of service. It is further stated that respondent No.2 invited applications vide notification dated 17.9.86 for the post of Welfare Inspector and the applicant also submitted the application alongwith other candidates. Written test was conducted and the applicant was declared as successful vide memo dated 6.4.88. Viva voce was also conducted and the applicant also appeared. A provisional panel was prepared but the name of the applicant did not find place in the panel. It is stated that in the result of written test applicant was shown at Sl.No.12 and respondent No.3 shown at Sl.No.6. The interview was fair though the name of the applicant did not find place in the panel whereas respondent No.3 who was not even eligible to participate in the selection was declared to have passed. The applicant filed representation by himself and through Union but with no result. It is stated that respondent No.2 has wrongly considered the candidature of respondent No.3 in spite of the fact that respondent No.3 was not eligible and the viva voce was fair to the applicant but he was not empanelled. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that a candidate can be declared successful only when he passes the

22

written as well as viva voce. It is also stated that respondent No.3 was substantive appointee in the grade Rs.330-560, one grade lower to the grade of 380-560 and he was promoted only on ad hoc basis. It is also stated that all other candidates shown in Anxx.A6 were also holding promotion post on ad hoc basis in the grade of Rs.1400-2300 as Welfare Inspector. Therefore, respondent No.3 was also rightly held eligible for promotion to the post of Welfare Inspector. It is stated that the applicant did not pass the selection test (written as also viva voce), therefore his name was not empanelled and the applicant has no case for interference by this Tribunal. Therefore, the O.A devoid of any merit is liable to be dismissed as such.

4. Heard the learned counsel for the parties and respondent No.3 in person and also perused the whole record including the original record pertaining to the selection on the post of Welfare Inspector.

5. It is not disputed that the applicant was eligible to appear in the selection test for promotion on the post of Welfare Inspector to be filled in pursuance of notification dated 17.9.86. It is also not disputed that selection test was comprising of written test and viva voce and notification to this effect was issued on 17.9.86. On a perusal of averments made by the parties it also appears that the applicant submitted an application alongwith others. A written test was conducted and the applicant declared successful. The applicant also appeared for viva voce test but his name did not find place in the panel and he was not promoted on the post. On a perusal of the original record, it appears that the applicant was declared failed, therefore, his name did not find place in the panel. No allegation of arbitrariness, malafide or otherwise have been imputed against the respondents. The main

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285

contention of the learned counsel for the applicant in this case is that respondent No.3 was not eligible to appear in the selection test, therefore, his selection be declared as illegal. On a perusal of the record, it appears that respondent No.3 was held eligible for promotion on the post of Welfare Inspector as he was only promoted on ad hoc basis and all other candidates shown in Annx.A6 were also holding the promotion post on ad hoc basis at the time of selection and they were also held as eligible. It is strange that the applicant has only challenged the promotion/selection of respondent No.3 and not any other person. In no way the applicant appears to be an aggrieved party with the selection of respondent No.3, Shri Anil Srivastava. Moreover, we do not find any error, infirmity or illegality in holding respondent No.3 eligible for appearing in the selection test for promotion to the post of Welfare Inspector.

7. As the applicant did not qualify the selection test held for promotion on the post of Welfare Inspector and, there is nothing on record to say that the selection process adopted for this purpose was in any way irregular/illegal. We are also of the opinion that the applicant cannot be said to be aggrieved by the selection of respondent No.3, therefore, we do not find any merit in the O.A and the applicant is not entitled to any relief sought for.

8. We, therefore, dismiss the O.A having no merits with no order as to costs.

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(A.P.Nagrath)

Member (A).

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(S.K.Agarwal)

Member (J).