

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 25/11/2001

OA 125/94

1. Mohammed Abrar, Fitter Grade-II, Department 25, C&W, Western Railway, Ajmer.
2. Veer Singh, Painter Grade-II, Department 26, C&W, Western Railway, Ajmer.
3. Maqbool Ahmed, Fitter Grade-I, Department 31, C&W, Western Railway, Ajmer.

... Applicants

Vers

1. Union of India through General Manager, western Railway, Churchgate, Mumbai.
2. Chief Works Manager, Loco Shop, W/Rly, Ajmer.
3. Dy.Chief Mechanical Engineer, Carriage Work Shop, Western Railway, Ajmer.

... Respondents

CORAM:

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


HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

For the Applicants ... Mr.S.K.Jain

For the Respondents ... Mr.T.P.Sharma

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

 In this application the applicant has prayed for the following reliefs :-

- "i) That by an appropriate writ, order or direction the impugned panel dated 1.11.93 be quashed and the original panel be framed on the basis of

selected candidates vide dated 29.6.91, and given promotion on the basis of the above list.

- ii) In the alternative the applicants further pray that the respondents be ordered to ~~fr~~ame the panel of successful candidates on the basis of merit assigned to them by selection committee without using the seniority list.

2. Applicants submit that the respondents issued a notification dated 23.8.90 (Ann.A/1) inviting applications from Skilled and Highly Skilled Artisans for being considered for appointment to the post of Apprentice Mechanic in the grade Rs.1400-2300 and the applicants were also the candidates. Pursuant to this notification, a written examination was held and the result was declared on 29.6.91. In the panel of 10 candidates, applicants' names ~~were~~ also appeared. Vide order dated 9.9.91 this written examination was cancelled on the ground of alleged irregularities and fresh applications were called vide notification dated 12.11.91. Being aggrieved by the notification dated 12.11.91, an OA (No.404/91, Navin Pandey and Others V/s Union of India and Others) was filed before this Bench of the Tribunal. The said OA was allowed with the following directions :-

"In the circumstances, the notification regarding holding of a fresh test is quashed. The answer books of the test already held may be got re-valued in the light of the directions given above, and result of the test held earlier may be declared at the earliest."

In the reply filed by the respondents in that OA it had been stated that there was a representation from one Shri Anup Gupta and also the Unions made representations on other grounds. There was no other complaint regarding any bungling in the matter. Because there was only one complaint from Shri Anup Gupta, the respondents could have revalued only his copy in terms of directions of the Tribunal and it was not necessary or required as per the Tribunal's ~~is~~ order dated 18.5.93 to revalue the copies of all the candidates. The respondents are stated to have committed grave illegality in disturbing the whole panel and declaring 29 persons successful in the examination after revaluation. The panel formed subsequently also stated to be suffering from illegality as the empanelling of the candidates has not been done as per rules. The name of one Shri Ravindra kashyap has been wrongly included as he was actually appointed on the post of Skilled Artisan on 13.3.84. Respondents' action of correcting the panel dated 24.9.93 and issuing a modified panel on 1.11.93 is contrary to the rules. It has been submitted that as per Railway Board's letter dated 18.9.69, selection to the post from different categories and grades should be done by grouping these grades together and the seniority should be determined on the basis of length of service in the nearest grade. Seniority should have been determined in the grades of Rs.330-560 and 380-560. The seniority ^{list} prepared by the respondents is not correctly framed and thus the panel based on that seniority is also wrong and is liable to be quashed.

3. The respondents in their written reply have admitted the basic facts of having issued a notification on

23.8.90. Consequent to which 10 candidates were declared successful in the written examination. Because of the complaints received, the matter was investigated and some irregularities were detected and it was decided to cancel that selection and hold fresh selection. However, in compliance of the directions of the Tribunal in OA 404/91 and in keeping with those orders, all the answer books were revalued and result was declared on 24.9.93. This was subsequently modified vide order dated 1.11.93 because one Shri Arvind Kumar Sharma was wrongly assigned seniority and his name was shown in the panel of successful candidates. Shri Ravindra Kashyap made a representation which on examination was found justified since Shri Ravindra Kashyap was senior to Shri Arvind Kumar Sharma. Shri Kashyap's name was included in the panel deleting the name of Shri Arvind Kumar Sharma. It is submitted by the respondents that since the Hon'ble Tribunal vide order dated 18.5.93 had given direction to revalue the answer books of the test already held, the respondents were duty bound to revalue all the answer books, as a result thereof 29 candidates ~~were~~ qualified in the written test, they were called for viva-voce test vide order dated 18.10.93 and 11 candidates were placed on the panel. The respondents have denied the contention of the applicants that the panel has not been framed as per rules. It has been submitted that the selection to grade Rs.1400-2300 is based on seniority and not on merit except those who have secured 80% or more marks. The date of entry into the grade of all the 29 candidates have been shown in Ann.R/3, which refutes the contention of the applicants that the order of seniority has not been correctly followed. The panel has been prepared, as

per Railway Board's directions laid down in the letter dated 27.11.86, on the basis of seniority i.e. entry into Grade-I, Grade-II and Grade-III. Since the respondents have acted entirely ⁱⁿ conformity with the directions of the Tribunal in OA 404/91 and also as per rules, it is stated that the applicants are not entitled to any relief and this OA deserves to be dismissed.

4. Heard the learned counsel for the parties and perused the entire records.


5. Learned counsel for the applicants interpreted orders of the Tribunal dated 18.5.93, passed in OA 404/91, to stress that the respondents were not right in revalueing all the answer books. The complaint was only in respect of one Shri Anoop Gupta and none other. Only his answer book should have been revalued. We have gone through the order in that case. It was observed in that case that the remedy lay in getting the answer books revalued by other competent persons or authorities and thereafter declaring the result. It was held that the answer books of the test already held may be got revalued in the light of directions given. A plain reading of the order makes it clear that all the answer books were required to be revalued so that a uniform standard of marking could be maintained. The contention of the learned counsel for the applicants on this account is liable to be rejected. The respondents were right in revaluimg all the answer books and declaring the result of the written test afresh.

6. The learned counsel for the respondents produced before us the proceedings of this selection, which were

~~which~~ also shown to the learned counsel for the applicants. It was explained by the learned counsel for the respondents that the final panel of 11 candidates was framed strictly as per rules and as per seniority from amongst successful candidates. Name of Shri Ravindra kashyap was correctly included as he was found senior to Shri Arvind Kumar Sharma. The learned counsel for the applicants referred to the result declared vide letter dated 29.6.91 to suggest that the result declared vide letter dated 1.11.93 was not in order of seniority. In the letter dated 29.6.91, applicant No.1, Mohammed Abrar, has been shown senior to S/Shri T.M. Krishnan, Naveen Pandey, Shyam Sunder Tak and Ravindra kashyap. In the final panel dated 1.11.93 while others have found a place, applicants' names are missing. We have carefully seen these two letters and we find the contention of the learned counsel for the applicants ^{is} misplaced. The letter dated 29.6.91 is the result declared of the written examination held on 25.3.91 but it nowhere states that this list has been prepared in order of seniority. On the other hand, the panel issued on 1.11.93 specifically states that the names have been placed in the panel as per seniority and also that Shri Ravindra kashyap's name has been included as he has been found senior to Shri Arvind Kumar Sharma. The respondents have filed, in support, Ann.R/3 to indicate the order of seniority of all the 29 candidates. As per this Annexure, Shri Ravindra Kashyap's date of entry into the Skilled Grade has been shown as 1.1.86, whereas that of Mohammed Abrar, applicant No.1, has been shown as 22.9.84. However, in para 4.15 of the written submissions of the respondents, it has been clarified that Shri Ravindra Kashyap had represented against the seniority assigned to

him and on examination his claim was found to be correct. As per the statement made therein, Shri Ravindra kashyap was appointed as Skilled Grade-III on 13.3.84. With this date he ranks senior to Shri Mohammed Abrar, applicant No.1. The respondents have also filed Anns.R/4 and R/5, which are the two representations from two applicants namely Mohammed Abrar and Maqbool Ahmed. In these representations they have, apart from other grounds, alleged that inclusion of Shri Ravindra Kashyap's name in the panel was not in order. However, in these representations, they have not claimed seniority over Shri Ravindra Kashyap. Considering the date of entry of Shri Ravindra Kashyap in the Skilled Grade as 13.3.84, there is no infirmity in including his name in the panel. IN view of the rules framed by the Railway Board in the letter dated 26.11.86 (Ann.A/11) and the order of seniority, we find action of the respondents is legally correct and is as per rules.

7. We, therefore, dismiss this OA as having no merits. No order as to costs.


(A.P.NAGRATH)

MEMBER (A)


(S.K.AGARWAL)

MEMBER (J)