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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 04.07.2000

R.A. No. 35/95

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O.A. No. 864/92

1. Jaswant Sharma son of Shri Jagdish Chandra Sharma aged about 32 years, resident of C/o. Khan Chand Saini, Dhani Karigar, Bhagat Singh Marg, Fulera, presently working as Senior Electrical Khalasi, Diesel Shed, Phulera Jn. (Rajasthan).
2. Kishan Singh son of Shri Moti Lal, aged about 37 years, resident of C/o. Shri Roshan Lal Ki Haveli, Dhani Kharigar, Ajmeri Gate, Phulera, presently working as Khalasi (Electrical), Pink City - Loco Steam Shed, Jaipur.
3. Devi Lal son of Hanuman, resident of Bad Ki Dhani, Phulera, presently working as Khalasi (Electrical), Diesel Shed, Phulera (Rajasthan).
4. Indra Pal son of Shri Panna Lal resident of village Kachroda, Phulera (Rajasthan), presently working as Khalasi (Electrical), Diesel Shed, Phulera (Rajasthan).
5. Brahm Shanker Gupta son of Shri Bhagwat Swaroop Gupta, resident of Dilliwata Kil Haveli, Phulera (Rajasthan), presently working as Sr. Khalasi (Electrical), Diesel Shed, Phulera.

... Applicants.

v e r s u s

1. The Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. The Divisional Railway Manager (Establishment), Western Railway, Ajmer.
3. The Senior Divisional Mechanical Engineer (Diesel), Western Railway, Ajmer Division, Abu Road (Rajasthan).
4. Shri Mohan Kishan Bassi.
5. Shri Om Prakash Sharma.
6. Shri Sampat Ram C.



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7. Shri Shiv Shankar Pathak.
8. Shri Heera Lal D.
9. Shri Om Prakash G.
10. Shri Karan Singh Rathore.
11. Shri Satya Narayan R.
12. Shri Kuldeep Singh.
13. Shri Panna Lal M.
14. Shri Jagdish C.
15. Shri Jagdish Prasad R.
16. Shri Manu Kumar S.
17. Shri Data Deen K.

(Respondent Nos. 4 to 17 are working as Sr. Khalasi through Divisional Railway Manager (Establishment), Western Railway, Ajmer.

... Respondents.

Mr. P.P. Mathur, Advocate, Brief holder for Mr. R.N. Mathur, Counsel for the review applicants.

Mr. Anupam Agarwal, Advocate, Brief holder for Mr. Manish Bhandari, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

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

(O R D E R)

(Per Hon'ble Mr. Justice B.S. Raikote)

This Review Application is filed seeking review of the order of this Tribunal dated 22.9.94 passed in O.A. No.864/92. The review petitioners contended that the matter was transferred from Jodhpur to this Bench and after transfer, they could not make the representation before the Bench and hence, the important facts could not be brought to the notice of the Tribunal. Therefore, the judgement/order requires to be reviewed.

2. The learned counsel for the review petitioners submit that it



was not brought to the notice of the Tribunal specifically that Manu Kumar belongs to Scheduled Caste category and his securing 43% marks could not be taken as the per centage for the general merit so as to set aside the selection on the ground that the persons who have secured 45 and 49 per centage of marks could not have been declared as failed. The review petitioners contended that the selection was proper and Manu Kumar was declared successful with 43% of marks only because he belongs to Scheduled Caste. Therefore, the selection of Manu Kumar as a person belong to general category was erroneous. Therefore, the order under review taking his marks as basis was erroneous and hence, that order is liable to be set aside.

3. But in our opinion, the order dated 22.9.94 passed in O.A. No. 864/92 is not the one fit to be reviewed. The first ground of the review applicants is that they remained absent and they did not make representation when the matter was heard by the Jaipur Bench, therefore, it is a fit case for review. The persons by being absent cannot have any right of getting the order passed in his absence reviewed. By remaining ex parte, the review applicants have taken the risk on themselves and on the ground of their absence they cannot seek review of the said order. They should have contested the application on merits and that they have not done. Therefore, they can not seek indulgence of this Court for interference of the order passed by this Bench in their absence.

4. Moreover, from the reading of the order we find that the very point was raised before this Tribunal at the time when the matter was heard. It was specifically contended that 43 per centage marks secured by Mr. Manu Kumar cannot be taken as marks of the general category since he belongs to Scheduled Caste. This very specific contention did not appeal to the Tribunal. Moreover, while passing the order under review, this Tribunal has taken into consideration number of mistakes in the panel prepared for selection. It has also taken into consideration that the Committee while preparing the panel has fixed 100 marks for viva voce and 100 marks for written test. But the same was not made known to the public. It also observed that the Committee fixed 100 marks for viva voce perhaps only to favour someone by giving higher marks. It also observed that Manu Kumar is taken as a person belonging to general category. From these facts, it follows that the Tribunal did consider the issue whether Manu Kumar belongs to S.C. or



General category. It also considered the other mistakes and also the fact of taking 100 marks for viva voce etc. while holding that the selection process was illegal. The order under review further observed that the Tribunal has taken into account the totality of circumstances while quashing the panel vide Annexure A/1. It was further observed that the respondents were at liberty to hold fresh selection and the persons who were eligible are allowed to appear for such selection. The provisional appointments, if any, made on the basis of the impugned panel should not be continued beyond one year. It is brought to our notice that after this order, a fresh panel was prepared by following due procedure and appointment orders were issued in the year 1994 and 1995.

5. For all these reasons, we find that there are no grounds for reviewing the order in question. Hence, we pass the order as under:-

"Review Application is dismissed."



(N.P. NAWANI)
Adm. Member



(B.S. RAIKOTE)
Vice Chairman

cvr.