

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(2)

O.A. No. 368/95
TAX No.

199

DATE OF DECISION 25.9.96

Manoj Nirban

Petitioner

Mr. Ashok Verma

Advocate for the Petitioner (s)

Versus

Union of India and Another

Respondent

Mr. V.K. Bhatia, Hindi Asstt.-I,
Departmental Representative

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. GOPAL KRISHNA, VICE CHAIRMAN

The Hon'ble Mr. O.P. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*


(O.P. SHARMA).
ADMINISTRATIVE MEMBER


Gopal Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 25.9.96

OA 368/96

Manoj Nirban, r/o 1033/1, Mali Mohalla, Christian Ganj, Ajmer.

... Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Railway Recruitment Board through its Chairman, Jaipur Road, Ajmer.

... Respondents

CORAM:

HON'BLE MR. GOFAL IRISHIA, VICE CHAIRMAN

HON'BLE MR. O.P. SHAFMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. Ashok Verma

For the Respondents

... Mr. V.K. Bhatia, Hindi Asstt.-I,
departmental representative

O R D E R

PER HON'BLE MR. GOFAL IRISHIA, VICE CHAIRMAN

Applicant, Manoj Nirban, in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed for the following reliefs :-

- "a) To direct the Respondent No.2 to declare the result of written test of your humble applicant at proper place on merit list under OBC category.
- b) To direct the Respondent No.2 to declare your humble applicant pass in final list of selected candidates in OBC category for the post of Apprentice Diesel Assistant.
- c) Respondents be directed to declare order dated 3rd May, 1995 vide Annexure A-1 illegal as such names of OBC candidates have been shown alongwith General Candidates category.
- d) To direct the respondent No.2 to declare list of candidates who passed the recruitment test alongwith their marks i.e. merit list in OBC category."

2. We have heard the learned counsel for the applicant and Shri V.K. Bhatia, Hindi Assistant-I, Railway Recruitment Board, Ajmer, departmental representative for the respondents, and have gone through the records of the case.

3. The applicant's case is that pursuant to an advertisement of

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vacancies vide Notification No.2/94 for the post of Apprentice Diesel Assistant/Assistant Electric Driver, the applicant applied for the post of Apprentice Diesel Assistant (Category No.8), reserved under the OBC category. He qualified the written test and his result was shown under the head 'reserved category' in the list of qualified candidates, vide Ann.A-1 dated 3.5.95. The applicant was subjected to an interview on 10.7.95. His interview was fixed on 10.7.95 alongwith general category candidates and not for taking interviews for merely OBC category candidates. It is contended by the applicant that reservations provided to SC/ST/OBCs put together should not exceed 50% of the total number of posts. The selection process has been assailed on the ground that the applicant's candidature was not examined vis-a-vis similarly situated persons i.e. OBC candidates and it resulted in arbitrariness. He has assailed the process of selection also on the ground that it was the duty of respondent No.2 to prepare a separate list of OBC candidates for taking their written test and for holding interviews of different categories on different dates. It is also stated that if a person, who is fit for selection, is available under the OBC category, no other person can be appointed to such post.

4. On the other hand, the respondents have stated that the applicant's name was shown in the list of general category candidates for the reason that he could get sufficient marks in the written test. The applicant was not only called for the interview but he was also called for the Psychological test, which was required to be cleared by all candidates, as was stipulated in the advertisement itself. Since the applicant failed in the Psychological Test, his case was not considered alongwith the OBC candidates.

5. The learned counsel for the applicant referred to D.P.T, O.M. No. 42014/10/94-Estt.(SCT) dated 13.10.94 and stated that in respect of written examinations and interview in order to fulfil the quota earmarked to OBCs, relaxation of standards may be provided to OBC candidates as in the case of SC/ST candidates. He also referred to FBE No.79/94, which is extracted below :-

"Subject : Stages at which Psychological Tests should be conducted.

[No.E(MG)I/92/PM1/22,dated 26.9.1994]

As the Railway Administrations are aware, in terms of instructions

(1) E(NG)I/69PM1/229 dated 3/7/71 (2) E(NG)I/70/PM1/30 dated 14.9.72 (3) E(NG)I/77/PM1/247 dated 26.4.1979 (4) E(NG)I/81/PM1/220 dated 20.1.83 (5) E(NG)I/88/PM1/50 dated 29.5.90 and 22.1.1991 contained in the marginally noted letters, psychological tests are

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to be conducted at the stage of direct recruitment of ASMs, Diesel Assts./Elect. Assts. and Motormen, and promotion/lateral induction as Engine Cleaners Pointmen Grade III/Levermen Grade II, Motormen and High Speed Drivers deployed on Shatabdi/Rajdhani Express.

2. These provisions have since been reviewed by the Board in the light of the recommendations made by the High-Powered Committee on Psycho Technical Cells and it has been decided to do away with Psychological Tests at the stage of promotion/lateral induction as Engine Cleaners, Pointmen Grade II and Levermen Grade II and to introduce them at the stage of promotion as Switchmen, ASM Diesel Asstt., Elect. Asstt., Goods Driver. Consequent to this decision, the Psycho Tests would now be conducted at the following stages :-

- (i) Direct recruitment of the ASMs, Diesel Assts./Elect. Assts. and Motormen.
- (ii) Promotion as Switchmen, ASMs, Diesel Assts./Elect. Assts. /Goods Drivers, Motormen, High Speed Drivers deployed on Rajdhani/ Shatabdi Express."

6. A close scrutiny of the provisions contained in the Office Memorandums, referred to above, would reveal that the Psychological Test has to be conducted at the stage of direct recruitment of ASMs, Diesel Assts./Elect. Assts./Motormen also and Diesel Assistants fall within the ambit of staff under safety categories. There is nothing on the record to show that any relaxed standards in respect of the Psychological Test could be provided to OBC candidates for the post of Apprentice Diesel Assistant, which cannot be differentiated from the post of Diesel Assistant since Apprentice Diesel Assistants after undergoing training are appointed as Diesel Assistants. The applicant was declared failed in the Psychological Test and in view of this fact the other arguments advanced on his behalf are unsustainable.

7. This application is, therefore, dismissed at the stage of admission. No order as to costs.

(O.P. SHARMA)

ADMINISTRATIVE MEMBER

GK
(GOPAL KRISHNA)

VICE CHAIRMAN

VK