

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May 1998
17/1/2003

O.A. No. 127/98
T.A. No.

199

DATE OF DECISION _____

Mohd. Sagir _____ Petitioner

Mr. Mahendra Shah _____ Advocate for the Petitioner (s)

Versus

Union of India and 2 others. _____ Respondent

Mr. R.G. Gupta _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman.

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

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH: JAIPUR.

Original Application:127/98.

Date of the order: 16-0-03

Mohd. Sagir
S/o Shri Mohd Jahur Ahmed,
r/o Railway Quarter No. L/158
Loco Colony,
Kota-Rajasthan.

:Applicant.

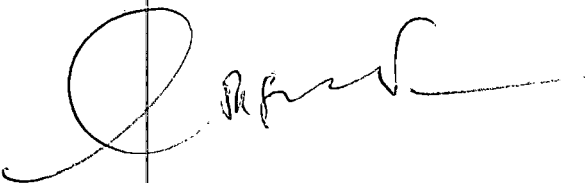
rep. by Mr. Mahendra Shah, : Counsel for the applicant.

versus

1. Union of India through General Manager,
Western Railway, Church Gate,
Bombay.
2. The Chairman,
Railway Board, Rail Bhawan,
New Delhi.
3. The Chairman, Railway Recruitment Board,
Divisional Office Compound,
Bombay Central, Bombay.

:Respondents.

rep: by Mr. R.G.Gupta, : Counsel for the respondents.



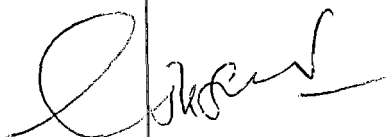
ORDER

Per Mr. Justice G.L.GUPTA

On. September 1, 1980, an advertisement described as Employment Notice No. 2/80-81 for category No. 25; a non-technical category, was issued by the Railway Board, inviting applications for certain posts in the Central and Western Railways totalling 4236. In response to the advertisement thousands of applications were received. The applicant also applied for the post. After he passed the written test he was called for the interview vide letter dated 9.2.82. He appeared before the Board on 3.5.82 for the interview and the psychological test. As the applicant was not given appointment he filed O.A. No. 337/92 in 1992, It was decided by this Tribunal vide order dated 10.1.194, whereby the respondents were directed to apply the decision rendered by the Bombay Bench of this Tribunal in T.A.No.241/86 decided on 14.2.91 to the case of the applicant.

2. The case for the applicant is that despite the decision of this Tribunal, the applicant was not considered for appointment and therefore a legal notice was served in November 1997. Through this O.A. the applicant seeks directions to the respondents to give him appointment on the post of Assistant Station Master or on any other suitable post with all consequential benefits.

3. In the counter, the respondents' case is that the applicant had not qualified to be empanelled for any category of the posts and therefore he was not placed in the select panel. It is averred that the results of the interview and the psychological test was declared in December 1986 and the claim of the applicant is barred by limitation. It is further stated that the matter of appointment of the candidates was considered pursuant to the decision of the Hon'ble Supreme Court in Civil Appeal No. 1821-31 of 1994 decided on 29.9.94



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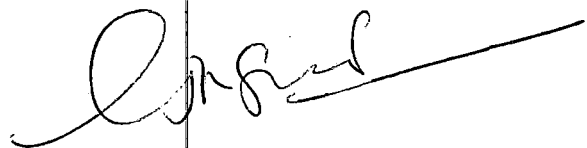
and as the applicant did not get the cut-off marks fixed for the successful candidates i.e. 150 out of 300 he was not given appointment.

4. We have heard the learned counsel for the parties and perused the documents placed on record. The direction of this Tribunal in O.A No. 337/92 was that the applicant should be given the benefit of the decision of the Bombay Bench of this Tribunal in T.A.No. 241/86 decided on 14.2.91. The decision of the Bombay Bench of this Tribunal has not been placed before us by either of the parties. However, a reading of the order of the Supreme Court (Annex.R.1) shows that the Bombay Bench had given various directions to the respondents in its order dated 14.2.91. The relevant direction No.5 read as under:

" The respondents RSC, shall appoint a High Powered Committee with the concurrence of the Railway Board of which the Chairman RSC shall be one of the members and the committee shall scrutinise all the cases which were entrusted to Directorate of Vigilance after giving notice to the affected parties and form their own opinion about the genuineness of such tests given by such candidates whether there has been any interpolation etc. to inflate the marks of change the answer sheets, as the case may be, and give their report to RSC which shall finally determine whether such a candidate has to be selected or not."

5. It is noticed that pursuant to the directions given by the Bombay Bench of this Tribunal, the respondents appointed a High Power Committee which examined the mater and took the view that only those candidates would be placed in the select list, who had got at least 50% of the total of 300 marks i.e. 150 marks.

6. It is seen that some of the candidates who did not get appointment, filed contempt petitions before the Mumbai Bench of this Tribunal and in those contempt petitions wherein the Mumbai Bench held that the criteria of 50% of the total marks as cut off



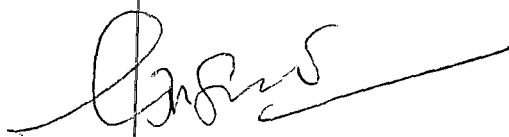
marks adopted by the High Power Committee was not according to the Rules. The Mumbai Bench directed that the candidates who had secured 105 marks should be deemed to have been recommended for category No. 25. That decision of the Mumbai Bench came to be challenged by the Respondents before the Hon'ble Supreme Court in C.A. Nos 1821-31 of 94. The Hon'ble Supreme Court did not agree with the decision of the Mumbai Bench in the Contempt Petitions and quashed the directions given therein.

7. The effect of the order of the Supreme Court was that the criteria adopted by the High Power Committee prevailed i.e. only such candidates who had secured 150 out of 300 were considered as eligible for selection.

8. It is not the case for the applicant in this O.A. that he had secured 150 out of 300. What is stated in the rejoinder is that the applicant had secured 139 marks as per the information obtained from the reliable sources. Even on assuming that the applicant had secured 139 marks, it is obvious, he had not qualified himself to be placed in the select panel. Admittedly he had not secured 50% of the total marks.

9. In the rejoinder, it is stated that persons who had obtained 35% marks were called for interview and the persons who had secured 105 marks were considered for appointment. The averment made in this regard is vague and the names of the persons who had called for the interview and considered for appointment have not been disclosed. It was therefore not necessary for the respondents to file counter to the rejoinder. Vague averments were not required to be refuted by way of supplementary reply.

10. The fact remains that the applicant has not been able to show that he has been discriminated. When persons who had obtained less



marks than him were not considered and given appointment it cannot be said that the applicant has been illegally deprived from the right of consideration. The order of this Tribunal, in the earlier case filed by the applicant, was to extend the benefit of the judgement of the Mumbai Bench of this Tribunal in T.A. No. 241/86 and ultimately the decision in the said matter was that to consider only those candidates who had secured 150 marks out of 300 and the applicant having obtained only 139 marks as per his own averment, did not have the right of consideration for appointment.

11. There being absolutely no merit in this application, it is dismissed with costs Rs.500/-.


(A.P.NAGARATH)

Administrative Member.


(G.L.GUPTA)

Vice Chairman.

jsv.