

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

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Date of Order : 1.6.2001  
~~5.2001~~

O.A.NO. 319/1999

1. Raghuveer Singh aged about 32 years S/o Late Shri S.P.Singh, R/o JS 10-A, Railway Loco Colony, Jaipur, At present posted as adhoc O.S.II in the Office of DRM, Jaipur.
2. Smt.Savita Choudhary, aged about 35 years, wife of Shri Rajendra Choudhary, R/o JS-5H, Railway Loco Colony, Jaipur, at present posted as adhoc O.S.II in the office of D.R.M., Jaipur.
3. Sohan Lal Meena aged about 50 years, S/o Shri Jagdish Prasad Meena, R/o Gandhi Nagar, Harayanvee Colony, Jaipur, at present posted as Head Chief Clerk in the office of DRM, Jaipur.

.....Applicants.

VERSUS

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.
2. Divisional Railway Manager, Western Railway, Jaipur.
3. Chief Personnel Officer, Western Railway, Church Gate, Bombay.

.....Respondents.

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Mr. Vinod Goyal, proxy for Mr.Virendra Lodha, Counsel for the applicants.

Mr.S.S.Hasan, Counsel for the respondents.

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CORAM :

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

Hon'ble Mr.Gopal Singh, Administrative Member

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*Counsel for*

Per Hon'ble Mr. Gopal Singh, Administrative Member :

In this Application under section 19 of the Administrative Tribunals Act, 1985, applicants' Raghuvver Singh, Smt. Savita Choudhary and Sohan Lal Meena, have prayed to quash the impugned Notification dated 16th June, 1999 (Annex.A/1) and for a direction to the respondents to restore the earlier Notification dated 27th June, 1997 (Annex.A/3) and declare the result of the applicants, who appeared in the aforementioned examination and in case they are declared successful, issue their promotion orders immediately. It has also been prayed by the applicants that in case the applicants have been found successful in the examination conducted in pursuance of the Notification dated 27th June, 1997 (Annex.A/3), they should be extended all the benefits at par with the general candidate(s) who had appeared in the examination in pursuance of the Notification dated 15th February, 1995 (Annex.A/2). It has also been prayed that the impugned Notification dated 16th August, 1999 (Annex.A/10), be quashed. By way of interim relief, it has been prayed by the applicants that the operation of the impugned Notification dated 16th June, 1999 (Annex.A/1), be stayed during the pendency of the O.A. and the applicants be considered for promotion on the basis of the examinations held in pursuance to the Notification dated 27th June, 1997 (Annex.A/3).

2. Applicants' case is that the respondent-department had organised a selection test vide their letter dated 15th February, 1995 (Annex.A/2), for the post of Chief Clerk Scale Rs. 1600-2660 and applicants' name also figured in the eligibility list for the said examination. However, the applicants did not appear in the above mentioned examination, as according to them their names were not placed in the eligibility list properly. The respondents have continued the process of the examination in pursuance to their order dated 15th February, 1995 (Annex.A/2) and selected four candidates from amongst the general category. The applicants represented the matter to the higher authorities and the General Manager, Western Railway,

*Gopal Singh*

vide his letter dated 17.5.1997 had given approval for one time exemption for holding a second supplementary selection for Scheduled Caste and Scheduled Tribe employees who had boycotted the written test. Accordingly, a written test was held for Scheduled Caste/Scheduled Tribe candidates. In the meantime, general category candidates approached this Tribunal through O.A.No. 300/1997 in the name of All India Shashit Karamchari Sangh through its President Vs. UOI & Others. The present applicants were also arrayed in that O.A. as private respondents. In Original Application No. 300/1997, the applicants therein, challenged the second supplementary examination for the reserved category candidates in terms of the Notification dated 27th June, 1997. The Tribunal vide its interim order dated 27.7.1997 directed the official respondents not to declare the result of the examination held in pursuance to the Notification dated 27th June, 1997. Subsequently, vide order dated 17th October, 1997, the respondents were allowed to declare the result but were directed to make it clear that any appointment to be made in pursuance of this selection, shall be subject to the final outcome to this O.A. Subsequently, the question of ordering supplementary examination exclusively for the Scheduled Caste and Scheduled Tribe candidates, was objected to by both the recognised Unions of the Railways and the Western Railway Headquarters passed the order dated 10.5.1999 (Annex.R/1) withdrawing the one time exception for holding a second supplementary selection vide letter dated 17.6.1997 and a fresh selection was ordered. Accordingly, the respondents have issued the Notification dated 16th June, 1999 for selection to the post of Superintendent Grade II, Scale Rs. 5500-9000. In this Notification also, the applicants find place in the eligibility list. This has been challenged by the applicants and it has been prayed that the second supplementary examination held for Scheduled Caste and Scheduled Tribe candidates, should be finalised in terms of the order

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of this Tribunal and necessary appointments be made of the Scheduled Caste and Scheduled Tribe candidates. In the Counter, it has been stated by the respondents that the respondent department had organised the selection vide their letter dated 15.2.1995 (Annex.A/2) but the applicants did not appear in this selection on their own volition and subsequently a special examination was permitted by the General Manager, Western Railway, for conducting a supplementary examination for Scheduled Caste and Scheduled Tribe candidates, the same was objected to by the general category candidates on the ground that the supplementary examination was against the rules. Accordingly, a decision was taken to cancel that selection held specially for Scheduled Caste and Scheduled Tribe candidates and a further selection was ordered for all general and scheduled caste and scheduled tribe candidates. It has also been pointed out by the respondents that there is no provision for conducting a supplementary examination of the candidates who boycotted the examination of their own volition. In these circumstances, it is prayed by the respondents that this application is devoid of any merit and is liable to be dismissed.

3. We have heard the learned counsel for the parties and have perused the records of the case carefully.

4. It is not disputed that the respondent-department had organised a selection vide their letter dated 15th February, 1995 (Annex.A/2) and the applicants were also listed in the list of eligible candidates. The applicants boycotted this examination of their own volition on the ground that their names were not properly placed in the eligibility list. We are of the view that the applicants could have represented the matter to the respondents and simultaneously could have appeared in the selection. Further, Para 223 of the Indian Railway Establishment Manual, contained the provisions

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relating to supplementary selection. We consider it appropriate to extract below the relevant para.

"223. Supplementary Selection/Suitability Test.

1.(i) A supplementary selection may be held in the following types of cases :-

(a) summons for interview being received too late by the candidates making it difficult for him to reach the place of interview;

(b) Administration's failure to relieve him in time for interview;

(c) Sickness of the candidate or other reason over which the employee has no control. Unavoidable absence will not however, include absence to attend a wedding or similar function or absence over which he has controlled. Sickness should be covered by a specific service from the Railway Medical Officer.

(ii) The supplementary meeting of the Selection Board should as far as possible be attended by the Officers who were present at the first Selection Board and held within one month of the first selection, or the return to duty of the employee concerned provided that the employee returned to duty not later than three months after the holding of the first selection. In case the return of the employee is delayed beyond three months, the result of the selection need not be deferred, the name of the employee being incorporated as if he had appeared at the selection when first held. The employee will not be eligible to be considered if he returns to duty more than six months after the date of the first selection.

(ii) Not more than one supplementary selection should normally be held to cater to the needs of absentee due to sickness, non intimation/late intimation of dates of

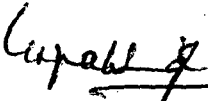
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tests etc. The second supplementary selection should be held rarely and with the personal approval of Chief Personnel Officer based on merits of each case."

5. It would be clear from the above provisions that no supplementary selection can be held for persons who boycotted the main selection for the reasons different than the reasons mentioned in Para 223 of Indian Railway Establishment Manual. Thus, granting of special one time exemption was against the provisions and as such was rightly objected to. In these circumstances, we do not find any infirmity or irregularity in the action of the respondents in withdrawing the one time exemption given for supplementary examination. It has also been pointed out by the respondents that applicants' had appeared in the selection notified vide letter dated 16.6.1999 (Annex.A/1) and applicant No.1 Shri Raghuvver Singh has faced the selection and has been appointed as Office Superintendent vide respondents letter dated 31.5.2000, a copy of which is taken on record.

6. In the light of the above discussions, we are of the view that this application is devoid of any merit and deserves dismissal. The O.A. is accordingly dismissed with no order as to costs.

  
(GOPAL SINGH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

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