

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 16/8/2000

OA 78/2000

Narayan Dutta Purohit, Rajbhasha Sahayak Grade-II at Division Railway Office, Jaipur.

... Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Dvl.Rly.Manager, W/Rly, DRM Office, Jaipur.

... Respondents

CORAM:

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

HON'BLE MR.N.P.HAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.Rajendra Dixit &
Mr.Kumud Singh

For the Respondents

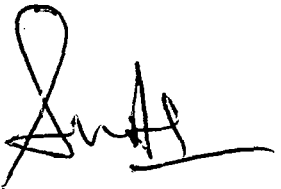
... Mr.B.K.Sharma

O R D E R

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

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes a prayer to quash and set aside the impugned order dated 3.2.2000 and to direct the respondents to regularise the services of the applicant on the post of Hindi Sahayak Grade-II.

2. Facts of the case in brief, as stated by the applicant, are that while working as Stenographer in the Railway Hospital, Jaipur, the applicant submitted an application to the DFO, Western Railway, Jaipur, for appointment on the post of Hindi Sahayak. The applicant also



2

- 2 -

submitted another application to the ADRM, Jaipur, on 28.7.98. The applicant was appointed on ad hoc basis vide order dated 28.7.98 on the post of Hindi Sahayak and joined the duties on 30.10.98. Later on, a notification was issued on 14.5.99 for selection of Hindi Sahayak Grade-II on regular basis and the applicant was found suitable for the post and he was kept on provisional panel which was also approved by the competent authority and was made effective w.e.f. 1.6.99 vide order, at Annexure A/7. It is stated that later on one Sh. Rajendra Kumar Gupta filed a complaint and in pursuance of that complaint respondent No.2 issued a letter to respondent No.1 that Senior Rajbhasha Adhikari was not available at that time, therefore, in place of Senior Rajbhasha Adhikari, Senior Divisional Personnel Officer (Junior Administrative Grade Officer), who is also a Hindi Graduate and in Graduation who has also opted English, was included. Hence, the constitution of Selection Committee was not invalid, improper and unjustified. But ignoring all this, respondent No.1 has issued the impugned order dated 3.2.2000 for cancellation of panel prepared for selection on the post of Hindi Sahayak Grade-II. It is stated that selection of the applicant was proper, legal and justified in the eye of law. Therefore, the impugned order is arbitrary, illegal and there was no illegality in the selection process. Therefore, the applicant filed this OA for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that for holding interview, constitution of selection committee was not in accordance with the rules. It is stated that according to the instructions issued for this purpose, it was necessary to include Rajbhasha Adhikari in the Selection Committee as per Railway Board's circular dated 12.1.88. Therefore, the

provisional panel declared vide order dated 3.6.99 was liable to be cancelled and the same was cancelled vide impugned order dated 3.2.2000 and the applicant has no case for interference by this Tribunal. Therefore, it is stated that this OA is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. Admittedly, the Selection Board constituted for selection of Hindi Sahayak Grade-II did not include the Senior Rajbhasha Adhikari as per headquarters letter dated 12.1.88, in which respondent No.2 had explained the position/circumstances to respondent No.1 as to why the Senior Rajbhasha Adhikari was not included in the Selection Board. The explanation submitted by respondent No.2 to respondent No.1 makes it very clear that Senior Rajbhasha Adhikari was not available in the division at that time. Therefore, Senior DPO (Junior Administrative Grade Officer) was included in the Selection Committee. It is also made clear that the person who was holding the post of Senior DPO was Graduate having opted Hindi and English in the degree examination. There is no allegation of any bias against the Selection Committee/Board and the person who was kept on provisional panel, his performance was appreciated very much by the authorities in the year 1999-2000 and a certificate of appreciation was also given to him in this respect. Merely that constitution of selection committee was not in accordance with the instructions/guidelines issued by the headquarters does not make the whole selection process as illegal and on such technical ground selection panel prepared should not have been cancelled particularly when there is no

Ante

allegation of bias against the selection committee and the person who was included in the selection committee was having a special knowledge of Hindi and English as he happened to be Graduate having offered Hindi and English as his subjects. In V.Ramu and Another v. Government of India and Others, 1999 (1) SLJ (CAT) 50, it was held that mere technical flaw causing no prejudice should not set aside the selection. In this case it was further held that mere technical defect in constitution of selection committee does not vitiate the selection.

6. Not only this, but in the instant case before cancelling the provisional panel no opportunity to show cause/hearing was given to the applicant. In case of individual selection if it is not found in accordance with the rules, notice/opportunity is required to be given but in case of mass mal practices no notice or opportunity of hearing is required before cancellation of selection. This view was taken by Hon'ble the Supreme Court in Biswaranjan Sahu and others v. Sushanta Kumar Dinda, Civil Appeal No.9157/96 arising out of SLP (C) 10250/96, decided on 8.5.96. In Govinda Raju v. KSRTC, AIR 1986 SC 1680, it was held by the Hon'ble Apex Court that before cancellation of select list notice to show-cause must be given.

7. In the instance case, it is abundantly clear that no notice to show-cause was given to the applicant before cancellation of selection and there is no allegation of bias against the selection committee/board regarding the impugned selection. Therefore, merely that constitution of selection committee was not in accordance with the guidelines issued by the headquarters does not vitiate the whole selection. Mere technical flaw does not become the ground of making whole

[Handwritten signature]

91

- 5 -

selection as illegal.

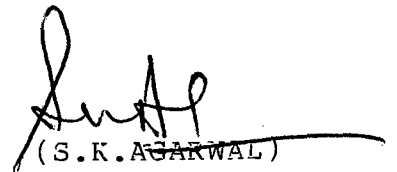
8. In view of above all, this OA deserves to be allowed.

9. We, therefore, allow this OA and quash the impugned order dated 3.2.2000, by which provisional panel prepared for selection of Hindi Sahayak Grade-II was cancelled, and the respondents are directed to issue the order of appointment to the applicant for the post of Hindi Sahayak Grade-II within one month from the date of receipt of a copy of this order. No order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)