

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA 539/2000

DATE OF ORDER: 12.2.2004

Shiv Raj Singh Solanki son of Shri Roop Singh, aged about 37 years, presently resident of Kota, posted as Technician Grade II, PSI, Kota, Sr. Section Engineer, South Cabin, Traction and Distribution, Western Railway, Kota.

.... Applicant

VERSUS

1. The Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Sr. Divisional Electrical Engineer, TPD, North Cabin, Western Railway, Kota.
4. Shri B.M. Meena, Divisional Electrical Engineer, TPD, North Cabin, and Chairman, Selection Committee of J.E. Grade II, Western Railway, Kota.
5. Shri Munna Lal M., Technician Grade III, C/o Sr. Divisional Electrical Engineer, TPD, Western Railway, Kota.

.... Respondents

Mr. F.F. Mathur, Counsel for the applicant.

Mr. Tej Prakash Sharma, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.N. Ehandari, Member (Administrative)

Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER

PER HON'BLE MR. BHARAT BHUSHAN



The present Original Application u/s 19 of the Administrative Tribunal's Act, 1985 has been preferred by the applicant, ^{on} being aggrieved by the impugned order dated 7.11.2000 (Annexure A/5) by which the result of for the post of Jr. Engineer Grade II (In Service Candidates) was pronounced and two candidates namely;

S/Shri Rakesh Kumar Sharma and Munoolal M. were found to be successful whereas the name of the applicant did not appeared in the same.

2. The case of the applicant is, that he was initially appointed as Apprentice on 12.8.1986 and thereafter on satisfactory performance of Apprenticeship, he was posted as Technical Grade II on 30.11.1987 and posted in Kota Division. Subsequently, he was promoted to the post of Technician Grade II on 25.2.1993. His further case is, that the respondents have issued an advertisement on 18.7.2000 for filling up three posts of Jr. Engineer Grade II in the pay scale of Rs. 5000-8000 from amongst the in service candidates working in the Tracks and Distribution Division within Kota Division. The applicant had then participated in the said Examination alongwith total number of 117 in service candidates. He has stated that the total number of marks in the said selection were 150 marks, out of which 100 marks were for written examination and 50 marks were for the interview. The result of the written examination was declared on 7.11.2000 (Annexure A/5). The case of the applicant is, that, he was shocked to find that his name was not amongst the qualified candidates of the written examination and hence he was not called for the interview. The applicant has alleged bias, malafide and favouritism at the hands of the respondents by alleging that one of the candidates selected i.e. respondent no. 5 had been working under respondent No. 4, Mr. B.M. Meena, Divisional Electrical Engineer, and by virtue of the said relationship, respondent No. 5 had been declared successful.

3. The respondents in their reply have vehemently denied the allegations of malafide, bias levelled by the applicant. It is their case that the eligibility of the candidates to be called for the interview was obtaining 60% marks in the written examination and



since only two candidates had secured such marks, so only they were called for the interview. It has further been submitted that the evaluation of the examination papers had been done by the Competent Authority and no irregularity/illegality had been committed in such evaluation.

4. We have heard the learned counsel for the parties and perused the records. While alleging malafide and favouritism by the respondents in favour of respondent No. 5, the learned counsel for the applicant has urged that such allegations have not been contradicted by the respondents. His submission is that under such circumstances by virtue of the decision of the Apex Court in Prestap Singh vs. State of Punjab, AIR 1964 SC 72, such contentions of the applicant would be deemed to have been admitted. But the case in hand is not the case of that nature because in this case the respondents in their counter reply to Sub Para 11 of Para 4 of the OA have totally denied the allegations of favouritism by respondent No. 4 to respondent No. 5. Thus under these circumstances the ruling relied upon by the applicant is not applicable to the facts of this case.

5. On the allegation of malafide levelled by the applicant, the Hon'ble Supreme Court in the case of Basudeo Tiwary vs. Sido Kanhu University & Others, JT 1998 (6) SC 464 has held as under:-

"The burden of Malafides is heavy on the persons who allege it; the alleging of malafides are often more easily made than proved and the very seriousness of such allegations demand proof of a high order of credibility."

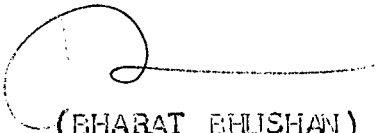
In the instant case too, there are simple allegations of favouritism without their being proved. Hence the same cannot be taken into consideration in view of the aforesaid ruling.

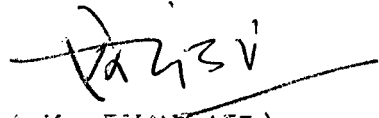
6. Regarding the role of the Tribunal with dealing with the matter of such like selections, the Hon'ble Supreme Court in UPSC vs. Hironyala Dev, AIR 1988 SC 1069, has held as under:-

"The powers to make selection were vested with the Selection Committee under the relevant rules and the Tribunal could not have played the role which the Selection Committee had to play. The Tribunal could not have substituted itself in place of the Selection Committee and made selection as if the Tribunal itself was exercising the powers of the Selection Committee."

7. Hence in view of the unsubstantiated allegations of favouritism levelled by the applicant and the limited role of the Tribunal while deciding the cases of selections etc., our view is that the OA is devoid of any merit and the same is hereby dismissed.


(BHARAT BHUSHAN)
MEMBER (J)

AHQ


(A.K. BHATTACHARYA)
MEMBER (A)