

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR

O.A. No. 455/2003
& M.A. No. 485/2003

Date of decision: 11.12.200

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

The Hon'ble Mr. A.K. Phandari, Administrative Member.

1. Sumer Singh
S/o Shri Suraj Singh
A. 107, Tara Nagar-A
Jhotwara, Jaipur.
2. M.A. Khan,
S/o Shri H.U. Khan,
27, Jaganath Puri
Kalwar Road, Jhotwara, Jaipur
3. Vineai Verma
S/o Shri Batti Prasad,
199 Mangal Bihar
Alwar.
4. Ravindra Singh
S/o Shri Kishan Singh
11/1568, Malviya Nagar,
Jaipur.

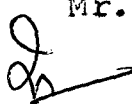
: Applicants.

rep. by Mr. A.N. Mathur : Counsel for the applicant
verus.

1. Union of India
through General Manager
North West Railway, Jaipur.
2. The Divisional Railway Manager,
North West Railway, Jaipur.
3. Shri Radhey Shyam Sharma
Head T.T.T. C.T.I.
Jaipur, Station.

: Respondents.

Mr. V.S. Gurjar : Counsel for the respondents.



ORDER

Per Mr. J.K. Kaushik, Judicial Member.

We have heard the learned counsel for the parties and have anxiously considered the pleadings and records of this case.

2. Shri Sumar Singh and three others have filed this O.A. under sec. 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

i) issue an appropriate writ order or direction to the respondents directing that applicants who are working on the promotional post shall not be reverted, they shall be given promotion on substantive basis, as they have declared successful in the written test.

ii) issue an appropriate writ, order or direction, in the nature thereby the condition imposed in the notification regarding interview may kindly be quashed and set aside and declare as ultra vires and the list Annex. A.3 by which persons juniors to the applicants are declared successful in the interview may kindly be quashed and set aside.

2. The abridged facts of this case are that a notification came to be issued on 1.4.2003, wherein the selection was ordered to be organised for empanelment of 38 candidates for the post of Head TTE, TNCR, Head T.C in the scale of pay of Rs.5000-8000. All the applicants were within the zone of consideration and they have qualified in the written test for appearing in the viva voce test. But in the panel declared their names have not been included.

3. The further case of the applicants is that all the applicants have been working satisfactorily on the promotional post on adhoc basis except applicant No. 4 from March 2002, March 2002 and December 2001




notional seniority basis. The panel was prepared as per the provisions contained in para 219 (g) (ii) of IREM. The Original Application has been filed with an object of seeking fishing and roving enquiry into the selection. Candidates who did not obtain the minimum of 60% marks in the written test cannot avail of the benefit of the circular dated 25.1.76. The O.A is therefore deserves to be dismissed.

6. A detailed rejoinder has been filed to the O.A on behalf of the applicants controverting the version of the respondents put forward in the reply and a copy of the order dated 7.8.2003, issued by the Railway Board has been placed on record, wherein it has been laid down that no notional marks would be awarded in case one does not get 60% marks in the written test.

7. Both the learned counsel for the parties have reiterated their pleadings. The learned counsel for the respondents has been fair enough and has assisted this Court in this case, and made it convenient to adjudicate upon the same to the possible extent and has produced the relevant records relating to the selection proceedings, which has facilitated us to impart the proper justice to the parties as indicated in the succeeding paras.

8. The learned counsel for the respondents also submitted that the applicants have undergone the complete selection without any protest and once a candidate has undertaken the examination without any protest, he cannot challenge the same after he was declared unsuccessful in the selection. However,



respectively. The applicant No. 4 is presently working as TTE on substantive basis. The extract of the Railway Board Circular dated 25.1.76, has been re-produced in para 5. Despite the applicants 1 to 3 were working satisfactorily on adhoc basis in the promoted post, they have been declared unsuccessful and the instructions of the Railway Board was that persons who were working on adhoc basis should not be declared as unsuitable has not been taken into consideration.

4. However, this application has been filed on diverse grounds e.g. the respondents have not followed the instructions envisaged in the circular dated 13.1.76; the judgement of this Tribunal in V.N. Sharma vs. Union of India and others, has been referred to. The applicants have been working for about two years and have gained experience on the post; failing them in interview would be arbitrary and they would suffer from the pangs of subordination there has been no contemplation of any disciplinary proceedings against them and they were ahead in the merit than the persons who were placed in the panel.

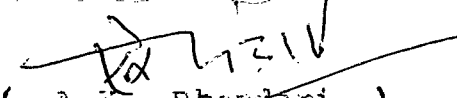
5. The respondents have resisted the claim of the applicants and filed an exhaustive reply to the Original Application. It has been averred that the applicants along with others were called for the viva voce test after they were successful in the written examination. Marks were also awarded on

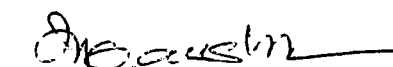


there is hardly any need to examine this objection since this application does not have otherwise any merits.

9. We have gone through the selection proceedings. It is clear that none of the applicant has been failed in the viva voce test. As per the procedure 15 marks have been allotted for viva voce and one has to secure 60% of it, which would come to 9 marks. In the present case, the applicants have secured 10, 10, 11 and 10.5 marks respectively in the viva voce test and thus none of them has failed in the viva voce. However, the applicants 1, 2 and 4 have failed to secure 60% in aggregate, and Shri Vinay (applicant No. 3) Verma has not passed the professional ability test, wherein he was required to secure 60% of the marks earmarked for the professional ability test and thus he also failed to secure 60% aggregate. In this way of the matter, we do not find any illegality or impropriety in the action of the respondents, rather the respondents have carried out the selection in consonance with the rules of the selection without any deviation.

10. In the premise, the applicants have no ^{case} worth interference by this Tribunal and the OA stands dismissed. Interim order already granted stands vacated. H.A. No.455/2003 is allowed. No costs.


(A.K. Bhandari)
Administrative Member


(J.K. Kaushik)
Judicial Member.

jsv.