

6

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.C. No. . 191 . . . of 1998.

DATE OF DECISION 21-12-2000.

Sri Ananta Das

PETITIONER(S)

S/Sri U.K.Nair, S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Sri B.K.Sharma

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR M.P.SINGH, ADMINISTRATIVE MEMBER.

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

Judgment delivered by Hon'ble Vice-Chairman.

l

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 191 of 1998.

Date of Order : This the 21st Day of December, 2000.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr M.P.Singh, Administrative Member.

Shri Ananta Das
Son of Sri Biresan Das,
Vill- Namdang Silachaku,
P.O. & P.S Gauri Sagar,
Dist. Sibsagar, Assam
(Roll No. 12210037) Applicant

By Advocate Sri U.K.Nair.

- Versus -

1. Union of India
represented by General Manager,
N.F.Railway, Maligaon,
Guwahati-11.

2. The Chairman,
Railway Recruitment Board,
Station Road,
Guwahati-1.

3. The General Manager(P)
N.F.Railway, Maligaon,
Guwahati-11.

4. Shri Gautam Hazarika,
C/O Chairman,
Railway Recruitment Board,
Station Road,
Guwahati-1. Respondents.

By Advocate Sri B.K.Sharma.

O R D E R

CHOWDHURY J.(V.C)

The application has arisen and directed against the order dated 10.3.1998 issued by the Chairman, Railway Recruitment Board, Guwahati vide Memo No.RRB/G/Con/155/62 cancelling the name of the applicant from the panel of Apprentices Diesel Assistant Driver in the following circumstances.

2. The Railway Recruitment Board published Employment Notice No. 2/96 inviting applications in prescribed forms for a number of posts in the North East Frontier Railway. In this application we are concerned with the post of Apprentices Diesel Assistant Driver. The advertisement indicated about 100 vacancies including 12 vacancies reserved for Scheduled Caste candidate. The applicant was one of the applicant for the said post claiming his entitlement for the post reserved for SC as he belongs to Schedule Caste Koiborta Community. As per the Notification the respondents authority insisted for the following educational qualifications for the post in question :

" (a) Matriculation pass or its equivalent or Tenth class (OR Tenth standard) pass under the 10+2 system course, plus (b) ITI qualification (Two years course in any of the following trades :- (i) Fitter (ii) Turner (iii) Machinist (iv) Electrician (v) Instrumental Mechanic (vi) Refs Air Conditioning Mechanic (vi) Mechanic (Radio-TV) (viii) Mill wright/Maintenance Mechanic (ix) Electronics Mechanics Mechanic (x) Mechanic (Motor vehicle) and (xi) Wireman Tractor Mechanic of Act Apprenticeship pass under the Apprenticeship Act/1961."

applicant applied for the aforementioned post. According to the applicant he submitted his application to the appropriate authority apprising the respondents about his educational qualification. The applicant claimed that he passed the H.S.L.C Examination from Board of Secondary Education, Assam and took training in the trade of Mechanical Diesel from the Industrial Training Institute(ITI), Gargaon, wherfrom he duly passed the trade test. The applicant asserted that he had undergone training in Oil and Natural Gas Commission, Eastern Region, Sibsagar and successfully completed the Apprentice Training Course under Apprentices Act 1961. The

respondents authority after processing the applications informed him by way of a Call letter/Admit Card dated 16.05.97 advising him to appear in the written examination for the post against Notice No. 2/96 for category No. 01 under N.F.Railway. The programme of written examination was also mentioned therein fixing 8.6.97 by indicating the venue of the examination. The applicant was found qualified in written test and the respondents accordingly sent Call letter cum Admit Card for viva voce and psychological test by letter dated 29.8.97 advising him to appear in the viva voce and psychological test on 22.9.97 in the Institute of Engineers, Panbazar, Guwahati and for that purpose a pass was also sent to the applicant. The final result was published on 9.1.98 showing the name of the applicant as one of the selected candidates on the basis of the performance of the written, viva voce and psychological test. The name of the applicant appeared against the vacancies reserved for the SC candidates against Roll No. 12210037. By the impugned Notification bearing No. RRB/G/CON/155/62 dated 10.3.98, the Chairman, Railway Recruitment Board, Guwahati cancelled his empanellement on the ground that the applicant did not possess 2 years ITI qualification, whereas the qualification he possessed was only 1 year course and for that reason his name was cancelled from the panel of Apprentice Diesel Assistant Driver. Hence this application.

3. The applicant has stated and asserted that he fulfilled the required qualification as was insisted under the advertisement. He passed the H.S.L.C.C.Examination and possessed 1 year ITI qualification in Mechanical Diesel Trade. In addition the applicant also passed the apprenticeship training course under Apprentices Act, 1961. The respondents ignored the

second alternative qualification and cancelled his name from the panel in a most arbitrary manner. The respondents in its written statement denied and disputed the allegation made by the applicant. The respondents stated that the applicant did not fulfil the eligibility criteria as required under the advertisement.

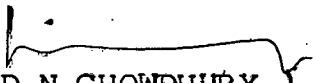
4. We have heard Mr U.K.Nair, learned counsel for the applicant and Mr B.K.Sharma, learned senior counsel appearing for the respondents. Mr Sharma strenuously submitted that the applicant was disqualified by the impugned order for want of qualification, namely, he did not possess 2 year ITI qualification. Mr Sharma also submitted that the respondents did not indicate the alternative qualification which he was relying now nor did he enclose any such certificate alongwith his application and for that purpose Mr Sharma sought to rely his application form. We are not in a position to accept the aforesaid submission of Mr Sharma on the ground that in the written statement the respondents did not indicate any such thing that the applicant did not indicate his alternative qualification. We find it difficult to accept the aforementioned contention also on the ground that the respondents went through a comprehensive exercise and results were declared thereafter. As per advertisement dated 6.10.96, the application was processed. The advertisement itself contained that applications would be deficient or irregular if such applications are/were incomplete/illegible application or application made on news paper cuttings, unsigned application, without I.P.O or without complete/proper enclosures etc. Applications were processed on completion of the aforementioned formalities and the candidates were called for interview. In the instant

case the written test was held on 8.6.97, prior to that the candidature of the applicant was scrutinised and thereafter only called for interview. After completion of that test the applicant was again invited for viva voce on 22.9.97. It was at least accepted that in the viva voce test the respondents was to scrutinise the original certificates. The results were declared after a long drawn process on 9.1.98, whereas the advertisement was made on 6.10.96. The name of the applicant appeared also in the final result sheet and thereafter by this impugned communication the applicant was labelled as unqualified on the ground that he did not possess 2 year ITI qualification. The applicant nowhere stated that he possessed 2 year ITI qualification. The applicant although out stated that he possessed 1 year ITI qualification from ITI Gurgaon. In addition he had also undergone the apprenticeship training course and successfully completed the All India Trade Test conducted by the National Council of Training in Technical Trades under the Director General of Employment and Training, Government of India on 19.7.96. There is no dispute that those persons who passed the apprenticeship test under the Apprenticeship Act 1961 is also one of the alternative qualification for the post, the applicant applied for. Since the applicant possessed the qualification, there is no justification for holding him disqualified. If any doubt, the respondents have had they ought to have verified the qualification even before the publication of the result. At this stage on the basis of the assertions it is difficult for us to accept the plea of the respondents that he did indicate the qualifications. The impugned order is seemingly arbitrary and accordingly the Order No. RRB/G/CON/155/62

dated 10.3.98 is set aside and quashed and the respondents are directed to take steps for consideration of his case for appointment on the basis of the result. The respondents will however, be at liberty to verify the authenticity of the apprenticeship certificate i.e. regarding the qualification before issuance of the appointment letter.

The application is allowed to the extent indicated above. There shall, however, be no order as to costs.


(M.P.SINGH)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY
VICE CHAIRMAN