

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 418 of 2005

Jabalpur, this the 5th day of April, 2006

Hon'ble Shri Justice M.A. Khan, Vice Chairman (5)
Hon'ble Dr. G.C. Srivastava, Vice Chairman (A)

Shri Ajab Singh,
S/o. Anant Singh Tomar,
Aged about 40 years, Pointsmen 'B'
West Central Railway, Vidisha, M.P.
Applicant

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(By Advocate – Shri R.N. Yadav)

V e r s u s

1. Union of India,
Through its General Manager,
West Central Railway,
Jabalpur, M.P.

2. Divisional Railway Manager,
West Central Railway,
Bhopal, M.P.
Respondents

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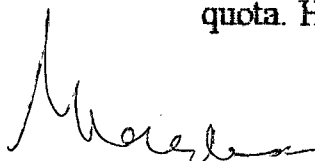
(By Advocate – Shri M.N. Banerjee)

ORDER (Oral)

By Justice M.A. Khan, Vice Chairman -

The applicant is working as Points Man in the respondents Department. He appeared in a Limited Departmental Examination for his promotion to the post of Assistant Station Master on 18.9.2004, but failed to qualify it. Three candidates out of the 14 candidates were declared to have passed the examination.

2. The present OA is filed by the applicant assailing the selection process/promotion to the post of Assistant Station Master against 15% quota. He also prayed that his answer sheet should be called and in case he



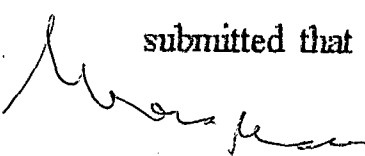
is found to have secured more than 60% of marks in the examination then he be allowed to compete in the aptitude test or in the alternative the respondents be directed to decide his representation. In the OA it is also mentioned that in one of the question No. 2(5) there was an error and when he pointed out this error to the authorities, he was declared failed although he had done well in the examination.

3. In the counter reply the respondents have refuted the allegations of the applicant that there was any error in the question paper and that the examination process have not been fair.

4. We have heard the learned counsel for the parties and perused the record.

5. The learned counsel for the applicant has again argued that one of the question as mentioned in para 4.6 of the OA was incorrect as there was no difference between starter and advanced starter. He further submitted that after he has drawn attention of the authorities about the error of the question, he was declared failed in the examination although he had done well in the examination and hoped to get 75% of marks. The learned counsel has also argued that the answer sheet should be called from the respondents and perused by the Tribunal and if the applicant has secured not less than 60% of marks then necessary direction may be issued to the respondents.

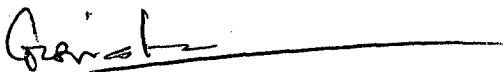
6. The learned counsel for the respondents on the other hand has not only controverted the allegations that there was any error in the question paper but has also pointed out that in representation which the applicant has submitted to the authorities, copy of which is at Annexure A-5, there was no mention of any error in the question. He has also referred the order of this Bench in the case of Jayanth Sarkar & Ors. Vs. UOI and others in OA No. 866/2004, which was decided by the Tribunal on 22nd November, 2005. It is also submitted that the said order squarely covers the present case. It is also submitted that this Tribunal in the said case has relied upon the case of

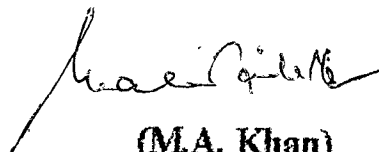


Union of India & Anr. Vs. N. Chandrasekharan & Ors., (1998) 3 SCC 694 in which the Hon'ble Supreme Court has observed that "selection procedure made known to the candidate before selection – Unsuccessful candidate, held on facts, not entitled to challenge it afterwards". Paragraph 218 (a) and (c) of IREM have also been referred in the said case, which was held to be applicable in the said case.

7. We have given due consideration to the averments made. Assuming that there was an error in one of the question but that error must have affected all the candidates who have appeared in the Limited Departmental Examination and not the applicant alone. Three of the candidates were declared successful in the Limited Departmental Examination. The applicant in fact in his representation made to the respondents' authorities has not pointed out any such error. In fact the respondents in the counter reply have denied that there was any error in the question paper and the fact remains that the error could not have affected the applicant alone but have affected all the candidates who have appeared in the Limited Departmental Examination. The applicant who appeared in the Limited Departmental Examination had failed to qualify it and now cannot turn around and challenge the very selection process and also ask for direction to the respondents to call his answer sheet to see that whether he has cleared the examination or not. We find that the reply of the respondents is on an affidavit.

8. Having regard to the above facts, we do not find any merit in this OA and the same is accordingly, dismissed. No costs.


(Dr. G.C. Srivastava)
Vice Chairman


(M.A. Khan)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अर्चो णित्त :-

(1) सचिव, उच्च न्यायालय वार एडमिनिस्ट्रेशन, जबलपुर

(2) आवेदक श्री/श्रीमती/कु.....के काउंसल

(3) प्रत्यर्पी श्री/श्रीमती/कु.....के काउंसल

(4) अध्यक्ष, के.प.अ., जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु

उप सचिव

R.N. YADAVAN DAV
M. N. BENJEE
B.N. JAI

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