

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JABALPUR

O.A. NO. 261 /2005.

Applicant : A.N. Singh & Ors.

Versus

Respondents : Union of India and others.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

Particulars of the applicants:

1. A.N. Singh
S/o Shri Baban Singh
Date of birth-20.7.1974
R/o Q.No.684/4,
New Loco Colony,
Distt. Bilaspur
2. S.M. Mishra
S/o Shri RN Mishra
Date of birth-1.6.1970
R/o House No. 38/609,
Hemu Nagar, Bilaspur
3. Arvind Singh Yadav
S/o Shri Moonga Lal Yadav
Date of birth-5.5.1973
R/o 660/1, New Loco Colony,
Bilaspur.
4. Deo Kumar Singh
S/o Shri Rangji Singh
Date of birth-15.6.1971
R/o C/o A.M. Khan
Torwa Khan Building
Bilaspur.
5. Vinod Tiwari
S/o Shri Dwarka Prasad Tiwar
Date of birth-16.1.1971
CCC Office, Bilaspur.
6. Mohd. Zakir,
S/o Late Murad Khan
Date of birth-25.5.1970
C/o Chief Crew Controller
S.E.C. Railway,
Bilaspur.



7. Sanjeev Ranjan Poddar
S/o Shri
Date of birth-17.6.1996
C/o CCC Office
S.E.C Railway
Bilaspur.
8. Pradeep Kumar
S/o Suresh Chandra
Date of birth-20.6.1976
R/o Hemu Nagar,
Bilaspur, (CG)

Particulars of the respondents:

1. Union of India,
through its General Manager
South East Central Railway
Bilaspur. (CG)
2. The Divisional Railway Manager
South East Central Railway
Bilaspur Division, Bilaspur.
3. The Sr. Divisional Electrical Engineer (Operating)
South East Central Railway
Bilaspur Division, Bilaspur.
The Divisional Personnel Officer,
O/o the Divisional Railway Manager
South East Central Railway
Bilaspur Division, Bilaspur.
5. Shri H.S. Kunjam (ST)
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur
6. Shri P.S. Pradhan
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur
7. Shri Ramakant Mahana
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JABALPUR

O.A. NO. 862 /2005.

Applicant

Kailash Singh

Versus

Respondents

Union of India and others.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985

Particulars of the applicant:

Kailash Singh
S/o Late Ram Singh
Aged about 36 years
R/o Rly Qr.No.1443/3,
Wireless Colony,
Distt. Bilaspur (Chhattisgarh).

Particulars of the respondents:

1. Union of India,
through its General Manager
South East Central Railway
Bilaspur. (CG)

The Divisional Railway Manager
South East Central Railway
Bilaspur Division, Bilaspur.
2. The Sr. Divisional Electrical Engineer (Operating)
South East Central Railway
Bilaspur Division, Bilaspur.
3. The Divisional Personnel Officer,
O/o the Divisional Railway Manager
South East Central Railway
Bilaspur Division, Bilaspur.
4. Shri H.S. Kunjam (ST)
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur
5. Shri P.S. Pradhan
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur
6. Shri Ramakant Mahana
LPG-II (Goods)
Through the Divisional Personnel Officer,
South East Central Railway
Bilaspur Division, Bilaspur
7. *[Signature]*

Central Administrative Tribunal
Jabalpur Bench

OA No.861/05 &
OA No.862/05

Jabalpur, this the 6th day of December 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

OA No.861/05

A.N.Singh
S/o Shri Baban Singh
R/o Qrs.No.684/4
New Loco Colony
Distt. Bilaspur.
and
7 others.

Applicants

(By advocate Shri S.Paul)

Versus

1. Union of India
Through its General Manager
South East Central Railway
Bilaspur and others.

Respondents

(By advocate Shri M.N.Banerjee)

OA No.862/05

Kailash Singh
S/o Late Ram Singh
R/o Rly. Qrs.No.1443/3
Wireless Colony
Distt. Bilaspur.

Applicant

(By advocate Shri S.Paul)

Versus

1. Union of India
Through its General Manager
South East Central Railway
Bilaspur and others.

Respondents

(By advocate Shri M.N.Banerjee)

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ORDER

By A.K.Gaur, Judicial Member

These two original Applications are being disposed of by this common order, as the issue involved in both cases is same and the facts are identical.

2. The applicants in both cases seek to set aside the same impugned selection pursuant to notification dated 3.11.2004 and subsequently the promotion orders dated 31.3.05 and 21.4.05 and for a direction to the respondents to conduct fresh selection after imparting pre-promotional training and in the event they are selected, they be directed to be promoted with retrospective effect with all consequential benefits.

3. Briefly stated, the facts are that the applicants are presently working as Sr. Asstt. Loco Pilot (4000-6000) and according to them, they were within the zone of consideration for the next post of 'Goods Driver' (5000-8000) as per the notification dated 3.11.2004 (A-3). They were sent for Driver Promotion Training Course and passed the same course. According to the applicants, pre-promotional coaching was required to be imparted to reserved category candidates. The applicants were not imparted any pre-promotional coaching before the impugned selection took place. No notice or information of any nature was given to the applicants and they were compelled to appear in the selection test in which they were declared as failed. It has been alleged in the application that there were irregularities in the selection process and the question paper given was not proper. The applicants were asked questions which were not in the syllabus, like trouble shooting etc. In the absence of any basic training in trouble shooting, the applicants were not able to answer the same. The selection was arbitrary, unjust, unreasonable and unfair and the whole selection is liable to be quashed in the absence of any pre-promotional training/coaching to the applicants.

4. The contention of the respondents, on the other hand, is that successful completion of driver's promotional training course is not the essential criteria for promotion to the post of Loco Pilot Goods.

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U/Goods Driver but qualifying the selection test is the essential requirement. Pre-selection coaching was held for reserved candidates i.e. SC/ST candidates only as per office order dated 14.9.04 (R-1).

None of the applicants belongs to reserved category, hence they cannot claim the benefit of pre-promotion training course. The respondents have, however, contended that pre-selection coaching was given to all the applicants and they have given their declaration.

Annexure-C has been enclosed along with the reply by the respondents to support their contention that the applicants have given their declaration. This annexure is wrongly mentioned as Annexure R-2 and this declaration has been given by one Kailash Singh, the applicant in OA No.862/05. No other declaration is seen to have been annexed in respect of the applicants in OA No.861/05. According to the respondents, before conducting the selection, pre-intimation was given to the eligible candidates one month before the date of examination through letter dated 3.11.04. The applicants were given a chance to appear in the examination but they failed to qualify the same. Hence the plea taken by the applicants is devoid of merits and the OA is liable to be dismissed, contend the respondents.

5. Since identical pleas and contentions are taken by the applicants and the respondents respectively in both the OAs, it is not necessary to repeat the same.

6. We have heard the learned counsel appearing on both sides and perused the records.

7. The only question is to see whether non-imparting the pre-promotional coaching to the applicants has vitiated the selection. From the pleadings of the parties and the evidence on record, we find that the pre-promotional coaching was meant for candidates belonging to reserved category. Admittedly, the applicants belong to the general category. Hence obviously, they cannot have any grievance on this count. It is also seen that the applicants have appeared in the examination without any demur, but they have failed to qualify in the written examination. Many candidates who successfully completed the pre-promotional training course as well as pre-coaching and who

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appeared in the examination have also failed in the written examination, as pointed out by the respondents. The applicants have failed to adduce even an iota of evidence to suggest that pre-promotional training was not imparted to them, except the bald allegation made in the OAs. Learned counsel for the respondents argued that pre-intimation was given to all eligible candidates for appearing in the written examination, including the applicants and that the applicants have no vested right for selection. In support of this contention, the learned counsel for the respondents has cited 2004 SCC L&S 316 - Union of India and others vs Tarun Kant Singh and others. He has also placed reliance on two decisions of the Apex Court in order to buttress the contention and the applicants appeared in the selection without any demur or protest and having failed in the selection, they are raising frivolous pleas in the OAs. The applicants are estopped from raising such pleas and the applications are barred by the principle of estoppel and acquiescence - AIR 76 SC 2428 -

Dr. G. Sarna vs. University of Lucknow AIR 1 1986 SC 1043 -

O.P. Shukla vs. Akhilesh Kumar Learned counsel for the respondents has also cited the decision of this Tribunal rendered in OA No.79/03 decided on 29.7.04 (Bhaskar Guha vs. Union of India and others).

Para 6 of the judgement is reproduced hereunder:

"After hearing the learned counsel for the parties and on careful perusal of the records, we find that the educational qualification of the applicant i.e. diploma in Railway Transport and Management is only a desirable qualification and not the essential qualification for the said post. The applicant could not secure the required marks in the viva-voce test and for satisfactory performance, as such, could not have been qualified and selected for the post of Commercial Apprentice. It is a settled legal proposition that the Tribunal should not interfere with the selection process and also a person cannot question the legality of the selection, once he has appeared and failed in the same. We do not find any ground to interfere with the action of the respondents."

8. In view of the aforesaid discussion, we find that there is no illegality in the selection in question. The principle of natural justice and fair play has not been violated and prior notice and opportunity

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was given to the applicants before holding the selection. The Original Applications are devoid of merits and are dismissed. No costs.

Copy of memo of parties may be supplied while issuing the certified copy of this order.

A.K.Gaur
(A.K.Gaur)
Judicial Member

G.C.Srivastava
(Dr.G.C.Srivastava)
Vice Chairman

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