

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 79 of 2003

Jabalpur, this the 29th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Bhaskar Guha, S/o. late Shri
A.B. Guha, aged about 26 years,
Employed as Ticket Collector in
S.E. Railway, at Bilaspur, Resident
at : Near Prabhat Traders, Devri Khurd,
Bilaspur, District : Bilaspur. Applicant

(By Advocate - Shri R. Pradhan on behalf of Ku. G. Arya)

V e r s u s

1. Union of India,
Through : The General Manager,
South Eastern Railway,
Garden Reach, Kolkata.
2. The Chief Personal Officer (Commercial),
South Eastern Railway, 14, Strand Road,
8th Floor, Kolkata.
3. The Divisional Railway Manager,
South Eastern Railway,
Bilaspur Division, Bilaspur.
4. The Sr. Divisional Personal Officer,
South Eastern Railway, Bilaspur
Division, Bilaspur. Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
claimed the following main reliefs :

8.2 to set aside the provisional list of promotions
vide Circular dated 20.11.2002 (Annexure A-13) in view
of aforesaid Glarious discrepancies,

8.3 to direct the respondents for inclusion of the
applicant's name also for the said promotions, since the
applicant is one of the eligible, highly qualified and
suitable candidates as described above,

8.4 to direct the respondent to extend all service/
seniority and pay benefits to the applicant at par with
others, who were selected to the post of Commercial
apprentices w.e.f. 20.11.2002 vide as per Circular vide
Annexure A-13."

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2. The brief facts of the case are that the applicant was appointed on compassionate grounds on 17.9.1996 in the Commercial Department of respondents' Railways and is posted as Ticket Collector at Chhindwara in Nagpur Division of S.E. Railway. As per the revised notification dated 10.1.2001, 22 posts of Commercial Apprentices were notified by the respondent No. 2. In the revised notification the respondents notified their intention to conduct departmental examination with a view to select and fill up the vacancies in the Commercial Apprentices against 10% Departmental quota. The applicant who passed B.Com and Part II of LLB and also passed Diploma in Rail Transport and Management from the Institute of Rail Transport, New Delhi, applied and submitted his application on 6.2.2001. The applicant appeared in the written test held on 11.11.2001. The applicant was one of among other successful candidates for viva-voce test, who qualifies the written test. According to the circular dated 16.9.2002, the applicant appeared for viva-voce test held on 30.9.2002 with his educational qualifications certificates etc. but only 14 candidates have been selected finally as Commercial Apprentices. The applicant's name did not appeared in the provisional panel of selected candidates. As the respondents have not made any provisions to entertain any representation or appeals from the candidates whose names are not in the provisional panel list, the applicant has approached this Tribunal by filing this OA and claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties and perused the records carefully.


4. It is argued on behalf of the applicant that the applicant possessed both the desirable and essential



qualifications for the alleged post. He qualified the written examination and also appeared in the viva-voce test but his name has not appeared in the provisional panel of selected candidates. The procedure adopted for marking in the viva-voce test is not proper. The applicant made a representation but it was not considered.

5. In reply the learned counsel for the respondents argued that the main criteria for appearing in the above examination is an University Degree Graduate with Law as additional qualification and Diploma in Railway Transport and Management as desirable qualification. In the notification no change was done. The applicant secured required 60% marks in the written examination as such was called for viva-voce test, however, he could not secure the required 60% marks out of the marks of viva-voce and his service performance, hence was not qualified in the selection. The Diploma in Railway Transport and Management was a desirable qualification which the applicant possessed. The applicant cannot take the benefit of this desirable qualification as he has failed in the viva-voce. The candidates who have qualified in the written test were called for viva-voce test. A panel of 22 candidates who have been qualified in the written test was asked to appear in the viva-voce test. Only 16 candidates have been empanelled as Comm. Apprentices. The applicant has not availed the alternative remedies available to him of submitting representation to the Department. Hence, the Original Application is liable to be dismissed.

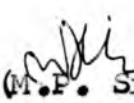
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the additional qualification of the applicant i.e. diploma in



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.

7. Accordingly, the Original Application is dismissed as having no merits. There shall be no order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

Issued
on 9.8.04
BB

पुस्तक से जो/व्या. जलपुर, दि.
प्रतिलिपि अर्बो डित :-
(1) सचिव, उच्च न्यायालय वार एसोसिएशन, जलपुर
(2) आवेदक श्री/श्रीमती/कु.
(3) प्रत्यक्ष श्री/श्रीमती/कु.
(4) सचिव, को.प्र.अ., जलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु
9-8-04
applicant
Mr Banerjee
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