

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 667 of 2001

Jabalpur, this the 6th day of September, 2004

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

1. Shri Sushil Kumar Kewat
S/o Shri Hardas Kewat,
Aged 39 years,
Parcel Porter,
Habibganj Railway Station.
2. Shri Dilip Kumar
S/o Shri Govind
aged 30 years,
Parcel Porter,
Bhopal Railway Station
3. Shri Ashok Kumar Pachhere,
M/o Shri Moolchand Pachera,
Aged 40 years,
Parcel Porter,
Ganj Basoda Railway Station.
5. Shri Om Prakash Yadav,
S/o Shri Amrit Singh Yadav,
Aged 35 years,
Ganj Basoda Railway Station

APPLICANTS

(By Advocate - Ku.P.L. Shrivastava on behalf of Smt. S.Menon)

VERSUS

1. Union of India,
Through The General Manager,
Central Railway,
Mumbai C.S.T.
2. Chief Personnel Officer,
Central Railway Mumbai.
3. The Divisional Manager(Commercial)
Central Railway,
Bhopal

RESPONDENTS

(By Advocate - Shri S.P. Sinha)

O R D E R

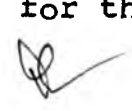
By Madan Mohan, Judicial Member -

By filing this OA, the applicants have sought the following main reliefs :-

"(1) to quash the notifications dated 20.6.01 (Annexure A-1 & A-2) as also the action taken in pursuance thereof, including the selections and hold it as illegal, violative of constitutional provisions.


AND/OR

direct the respondents to hold a fresh examination (written cum oral) in accordance with the circular and service Rules in force for the time being".



2. The brief facts of the case are that the respondents issued a notification dated 20.6.2001 inviting applications for filling up certain vacant posts of Ticket Collectors in the pay scale of Rs. 3050-4590/- from 16 2/3% and 33 1/3% of the Departmental quota for promotion to the aforesaid post. The notification depicts that the departmental quota to the extent of 16 2/3% was to be filled up from candidates who were matric pass and had worked in Grade IV for 2 years. It was also mentioned that knowledge of Hindi is mandatory, whereas in the second notification of 20.6.2001 for filling up 33 1/3% it has been mentioned that along with Hindi language, the incumbent must have knowledge of English language and that he or she must have served in the substantive capacity for 3 years and that the incumbent should be 8th class pass or above. On issuance of the second notification the applicants submitted an application raising objections therein. The written examinations were conducted by the authorities concerned on two days. The list of the eligible candidates who had passed the written examination came to be reflected by the authorities concerned through their communication dated 27.8.2001 and 10.9.2001. The names of the applicant does not find place in the said lists. It is ridiculous that for 8th class pass candidates, knowledge of English was made mandatory whereas for those who are matric pass, it was not at all necessary. The action of the respondents is a clear infraction of the principles of natural justice and equity. The respondents have adopted dual standards and yard sticks giving preferential treatment to all those candidates who are matric pass. Such a qualification/criteria could not have been endorsed by the Railway authorities.


3. Heard the learned counsel for the parties and



perused the records carefully.


4. It is argued on behalf of the applicant the respondents have issued notification dated 20.6.2001 inviting applications for filling up certain posts of Ticket Collectors. A second notification was also issued wherein it has been mentioned that along with Hindi language, the incumbent must have knowledge of English language and that he or she must have served in the substantive capacity for 3 years and that the incumbent should be 8th Class pass or above. The names of the applicant does not find place in the results declared by the respondents after conducting the written examination. The respondents have not followed their own instructions and rules on the subject. The action of the respondents ^{is} illegal and arbitrary.

5. In reply the learned counsel for the respondents argued that it is denied that the notifications are in violation of constitutional provision enunciated in Articles 14 and 16. These two notifications were issued as per amended para 189 of the IRFM. No application dated 19.7.2001 was ever received by the respondents. Hence, there was no question of any consideration. The respondents further argued that the applicants appeared in the examinations for two separate quotas as per their eligibility criteria and without any protest. Hence, now they cannot challenge. The longer period of services is immaterial as two quotas have been fixed. Earlier there was one quota of 33 1/3% for all group D employees who passed minimum 8th class examination with 3 years service in commercial department. A separate quota of 16 2/3% was extended for the Group-D employees of commercial department who have matriculation qualification with 2 years minimum services in commercial department and hence the candidates



who are not matriculates cannot challenge the separate quota provided. The candidates who qualified in the selection were sent for training as per rules. The respondents denied this fact that any objection was ever raised any time prior to the publication of panel. The applicants having appeared in the examination cannot challenge the same after they had failed to qualify in the same. The option has been given to the candidates appearing against both quota to answer the paper in English or Hindi. Thus it is denied that the examinations were conducted in English only. Accordingly, 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 notifications were issued as per the amended para 189 of the IRFM. We also find that there were two separate earlier there was quotas and one quota of 33 1/3% for all group-D employees who possessed minimum 8th class pass qualification with 3 years service in commercial department. But vide Annexure R-2 a separate quota of 16 2/3% was extended for the group-D employees of commercial department who have matriculation qualification with 2 years minimum service in commercial department. The candidates who qualified in the selection were sent for training as per rules. No objection was ever raised at any time by the applicants prior to the publication of the panel. The applicants after appearing in the examination and failing in the same later cannot challenge the same. Total 17 candidates were qualified in the written test and after viva-voce test 11 candidates were brought in the panel. We also find that option has been given to the candidates appearing in both quota to answer the paper in English or Hindi. Hence, we do not find any illegality or irregularity in the action of the respondents. It is a settled legal proposition that



once a person took part in a selection process cannot challenge the selection procedure after having failed in the selection process.

7. Accordingly, we are of the considered opinion that the applicant has failed to prove his case and this Original application is liable to be dismissed as having no merits. Hence, the Original Application is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पूरांकन सं ओ/न्या.....जबलपुर, दि.....

परिलिखित अर्थ निम्न -

"SA"

- (1) सचिव, उच्च न्यायालय का एम्प्लोयमेंट, जबलपुर
- (2) आदेश श्री/श्रीमती/शु.....के काउंसल sml - s menon AC JP
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल shn - s p sinha AC JP
- (4) अध्यक्ष, कोर्ट, जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप सचिव

Issued
On 10.9.04