

CENTRAL ADMINISTRATIVE TRIBUNAL? JABALPUR BENCH, JABALPUR

Original Application No. 241 of 1999

Jabalpur, this the 6<sup>th</sup> day of October, 2003.

Hon'ble Mr. M.P. Singh, Vice Chairman(Administrative)  
Hon'ble Mr. G. Shanthappa, Judicial Member

1. Naresh Kumar Wathary W/o  
Shri G. P. Watharey.  
Dy. Chief Controller  
Central Railway Jabalpur
2. Chhotelal Patel  
Dy Chief Controller  
Divisional Control Office,  
Central Railway  
Jabalpur.

APPLICANTS

(By Advocate - Smt. J. Chaudhary)

VERSUS

1. Union of India through General Manager  
Central Railway Bombay VT.
2. Divisional Railway Manager(P)  
Central Railway,  
Jabalpur.
3. Shri P.K. Singh  
Dy Chief Controller  
Central Railway, Jabalpur
4. Mukesh Kumar Tiwari  
Dy. Chief Controller  
Central Railway Jabalpur.
5. Shri D.K. Singh  
Senior D.O.M.  
Central Railway, Jabalpur
6. Shri S.C. Sharma  
Dy Chief Controller  
Central Railway, Jabalpur
7. Shri Hemant Kumar Khamparia  
Dy. Chief Controller,  
Central Railway, Jabalpur
8. Shri R.C. Pali  
Dy. Chief Controller,  
Central Railway, Jabalpur.
9. Ram Karan Raghuvanshi  
Dy Chief Controller  
Central Railway, Jabalpur
10. Prahalad Kumar  
Senior Traffic Inspector  
Central Railway,  
PZTC Bhusalwal.

RESPONDENTS

(By Advocate - Shri S.P. Sinha for official respondents  
None for private respondents)

O.R D E R

By G, Shanthappa, Judicial Member -

The applicant have file above OA seeking the following relief :-

(i) To quash the selection/panel of candidates declared successful in pursuance to the viva voce test Annexure-A-III

(ii) Declare the action of the respondents irregular declaration of the result of the written test, as arbitrary and illegal

(iv) To direct the respondents to empanel the applicants in the list of candidate suitable to appear in the viva voce test.

2. The advocate for the applicant submits that the

applicants 1 & 2 are working since 22 and 19 years respectively without any bad remarks. Through out their services, they have performed their service with at most satisfaction of their higher authorities.

3. On 23.1.99 respondent No. 2 had issued a circular for selection of Chief Controller Grade Rs.2375-3500/- 7450-11500(RSRB) in Traffic Department vide Annexure-A-1.

The post of Chief Controller is a selection post. That the total number of the posts to be filled was declared as 7(5 Gen. 1-ST and 1-SC). A written test in connection with was to be conducted on 20.2.99 and the supplementary test was to commence on 27.2.99. The list of eligible candidates for appearing in the written test for the promotional post of Chief Controller, was published. The applicants being seniors appeared at serial No. 2 & 5 respectively in the list as per Annexure-A-2.

4. The applicants appeared for the written test and they were hopeful to get through successfully in the written test as they have done the test exceptionally well. When the applicants found that they had not been called for viva voce examination, they submitted their representation to the competent authority, who informed that since they have not obtained 60 percent of marks, they were not being called for viva voce examination.

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The case of the applicant is that according to Railway Rules if senior persons do not obtain the requisite 60 percent marks, preference be given to the senior candidates appearing for the selection post by adding marks to their seniority, to make them eligible for appearing in the *viva voce* examination, the applicants further contended that they have alleged malafide against the official respondents and the persons who are selected for the said post by way of filing an amendment application. In the malafide they have urged that in the earlier selection for the post of Chief Controller the 5th respondents had manipulated the selection of his close relation Shri A.K. Singh and in the present selection, he is doing his best to ensure the *ie* selection of another relation Shri P.K. Singh ~~the~~ respondent No.3 who is much junior to the applicant and has very little experience as a controller of trains which involves the safety aspect.

5. The applicants have further submitted that the necessary answer books of the applicants and the selected candidates shall be called for before this Tribunal and revaluation is to be made by appointing competent officer and grant relief as prayed in the OA .

6. Per contra the respondents Nos 1,2,& 5 have filed their detailed reply denying the allegations made against them and also denied averments made in the OA. It is a specific case of the respondents, that the applicants were called for *viva voce* test. In the reply to para of the O.A.

4.16 it is stated and admited that since they failed to obtain qualifying marks as such failed in written Test, they were not called for *viva-voce* ~~xxxxxxxx~~ test.

*GJ*

*PK*

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The respondents No. 3 & 4 have also filed their return contending that the allegations made against the official respondents are denied, there was no ~~ul~~terior motive while selecting them. The respondents Nos. 3 & 4 have performed well and they have secured merit in the competitive ~~ex~~amination and they have called for interview and selected.

7. Subsequent to filing the reply by the respondents, the applicants have filed rejoinder and clarifying the reply of the respondents. The specific averment made in the rejoinder, that after issue of notice in this case to the respondents, ~~and~~ <sup>on</sup> the same day the panel was declared and back date of 2.7.99 was given. It may be clarified that no date has been given to so far that a panel has been approved. This has been done deliberately

8. Heard the learned counsel for the applicant and respondents and also perused the pleadings and records

9. After hearing from both the sides, as short question for disposal of this OA is, ~~whether~~ this Tribunal can consider the request of the applicants, calling for the answer scripts of the applicants and the selected candidates for the purpose of revaluation and also for consideration of marks awarded to each of the candidates.

10. Since the allegation made on the official respondents and the selected candidates are not proved in their case, hence the allegations cannot be consider since application is not deciding on merits.

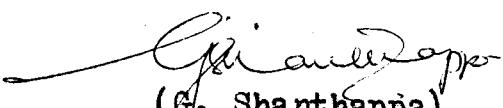
11. The request of the applicants for retotling and also revaluation cannot be made by this Tribunal, hence we direct the applicants to approach the official respondents with a request, to ~~name~~ the au

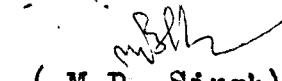
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if the rules provide. script or retotling the marks. After they obtained a reply from the official respondents, if their performance is improved as per the reply to be given by the official respondents, then the applicant can agitate their grievance for selection for the Chief Controller Grade Rs.7450-11500(RSRB) in traffic department

12. Without going to the merits of the case we dispose of the above application, directing the applicants to approach the official respondents for revaluation of their answer scripts or for retotaling their marks in the said competitive examination, after they receive the reply from the respondents, if the performance of the applicants are better than the selected candidates, then to approach the official respondents to obtain a letter for viva voce test under the selection process Annexure-A-2.

13. On this observation the above application is disposed of. No costs.

  
(G. Shanthappa)  
Judicial Member

  
( M.P. Singh)  
Vice Chairman

पृष्ठांकन सं ओ/न्या..... अवलास्त्र. नि. ....  
प. निमित्तिका आवश्यकता  
(1) संसिद्ध, उच्च अध्यायालय द्वारा दिए गए अवलास्त्र  
skm अवश्यक श्री/महिला/स्त्री ..... अवलास्त्र संत. T. C. Nareshwar, Adu  
(2) उच्च अध्यायालय द्वारा दिए गए अवलास्त्र संत. S. P. Sinha, Adu  
(3) उच्च अध्यायालय द्वारा दिए गए अवलास्त्र संत. S. P. Sinha, Adu  
(4) उच्च अध्यायालय द्वारा दिए गए अवलास्त्र संत. S. P. Sinha, Adu  
सूचना एवं आवश्यक कानूनी नियम

  
16/11/63

Recd/Expy  
11/11/63