

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.540/1998

Jabalpur : This the 24th day of July, 2003.

Hon'ble Shri J.K. Kaushik, Judicial Member
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

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S.K. Shrivastava, aged about 41 years, S/o Shri O.P. Shrivastava, resident of Nayagaon, Lakhera Near Church, Katni (MP).

.....Applicant.

versus

1. Union of India through Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Executive Director (Metallurgy & Chemical), R.D.S.O. Manak Nagar, Lucknow (UP).
3. Chief Personnel Officer, Central Railway, Mumbai CST.
4. Chemist and Metallurgist, Central Railway, Parel, Mumbai.
5. Chief Mechanical Engineer, Central Railway, Mumbai CST.
6. Chemist and Metallurgist, Diesel Shed, Central Railway, Katni (MP).

.....Respondents.

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Present :

Mr. J.P. Trivedi, Advocate
for the applicant.

Mr. S.P. Sinha, Advocate,
for the respondents.

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ORDER (ORAL)

By Mr. J.K. Kaushik, Judicial Member :

Shri S.K. Shrivastava has filed this application under section 19 of the Administrative Tribunals Act, assailing the order Annexure A/1 dated 10.12.1997 and order Annexure A/2 dated 6.2.1998, and the examination held in pursuance thereof and has further prayed for a direction to the respondents to hold a fresh examination for selection to the post of Lab Superintendent by constituting a fresh selection board.

2. The abridged facts of this case necessitating filing of this O.A. are that the applicant while holding the post of Lab Superintendent Grade-II was subjected to selection for promotion to the post of Lab Superintendent Grade-I in the pay scale of Rs. 1640-2900. He was successful in the written test, but the selection itself was cancelled which came to be challenged before this Tribunal in OA No 444/96 but it also resulted in failure.

3. The further facts of the case are that an another Notification dated 10.12.1997 was issued for holding selection afresh for the post in question. The applicant was also in the zone of consideration. However, he did not choose to appear and submitted his protest mainly on the ground that the selection board was not properly constituted inasmuch as none of the Members of the Board was from the department of Chemist and Metallurgist to which he belongs. The selection was conducted and has already been finalised. Applicant's case is that his representation remain undecided. Even against the subsequent selection certain



complaints were filed by some of his colleagues vide Annexure A/7. Further it is contended that the question paper did not contain the objective type questions as were required under the rules. The application has been filed on number of grounds which we propose to deal in subsequent part of this order.

4. A detailed counter reply has been filed and and the facts and the grounds raised in the O.A. are generally denied. It has been submitted that the Selection Board was properly constituted and there were two Junior Administrative Grade Officers and one Officer from the Personnel Branch of the rank of Senior Personnel Officer and there was absolutely no illegality in the constitution of the Board. It has been further averred that Chemist and Metallurgist department is part of the Mechanical branch and on this count also no illegality can be said to have been made.

5. Rejoinder as also certain written arguments have been submitted in this case and the facts and grounds have been reiterated.

6. We have heard the learned counsel for the parties very elaborately and with full patience and have considered the submissions, pleadings and the records of the case.

7. The learned counsel for applicant has vehemently submitted that the Board was not constituted as per Para 219 of the Indian Railway Establishment Manual, Volume-I, inasmuch as two of the officers belonged to mechanical

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department and none belonged to Chemical and Metallurgical department. and that was the reason the applicant did not appear in the selection. Once the very selection ^{board} was not constituted properly all the subsequent actions gets nullified. He has further submitted that certain complaints were made regarding the very question paper inasmuch as it was not prepared in accordance with Syllabus, Master Circular on the subject which provides that the paper is to be drafted by one officer and the answer books are to be checked by another. But, such course of action has not been found expedient in the present case. On a specific query from the Tribunal it was stated with the consultation of applicant that applicant has appeared in the subsequent examination for the same post but could not get success and he continues to hold the post held earlier by him.

8. On the contrary, the learned counsel for respondents has reiterated his pleadings and has ^{categorically} submitted in reply to applicant's rejoinder that the Selection Board was properly constituted wherein two Junior Administrative Grade Officers and one Senior Personnel Officer were included and, therefore, the very application is misconceived and frivolous and it should be dismissed with exorbitant cost. The applicant should thank to himself that he has ~~not~~ chosen not to appear in the examination and there has been absolutely no illegality and arbitrariness on the part of the respondents.

9. We have considered the rival contentions submitted on behalf of both the parties.

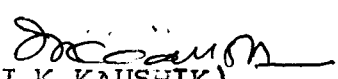
10. The admitted fact of the case is that it has not been brought to our notice that as to who were the officers to be nominated to constitute the selection



board. The learned counsel for applicant could not point out clearly on this aspect. Even the applicant who is also present was unable to say as to by which officers the selection board should be constituted and what were their names etc. The fact which has been submitted on behalf of the respondents in one of their pleading that there were two Junior Grade Officers and one Senior Personnel Officer remains unrefuted. As regards the Members of the Board belong to Mechanical department, it is brought to our notice that in the earlier O.A. a similar question was raised by Shri Suphakar Thakur Vs. UOI & Ors. in OA No. 444/96 decided on 19.2.1997 (supra), but the applicants therein were not granted any relief. Thus, contention of learned counsel for applicants falls on the ground and stands repelled. On the other hand, the submission made on behalf of respondents have our concurrence, and we have no reason to take a different view on a similar issue involved in the present case.

11. The upshot of the aforesaid discussion is that the O.A. has no merit and is devoid of any substance. The same fails and stands dismissed. However, in the facts and circumstances of the case, we make no orders as to costs.


(ANAND KUMAR BHATT)
Administrative Member


(J.K. KAUSHIK)
Judicial Member

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jrm

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

प्रतिनिधि अर्पित:-

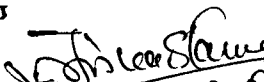
(1) सचिव, उच्च न्यायालय ज.प्र. एगोस्टिफेशन, जबलपुर

(2) अवरुक्त श्री/श्रीमती/शु.....के काउंसल

(3) प्रत्यक्ष श्री/श्रीमती/शु.....के काउंसल

(4) बंयपाल, केडल, जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु


उप सचिव 1.8.03

J.P. Trivedi, Adm
S.P. Sarda, Adm

Issued
on 01-8-03
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