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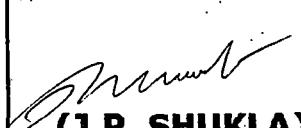
26.07.2007

OA No.57/2006 with MA 282/2006

Mr. P.V. Calla, Counsel for applicant.

Mr. Anupam Agarwal, Counsel for respondents.

On the request of the learned counsel for the parties, list it on 23.08.2007.


(J.P. SHUKLA)
MEMBER (A)


(KULDIP SINGH)
VICE CHAIRMAN

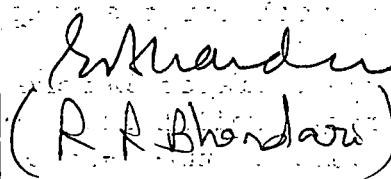
AHQ

23.8-2007

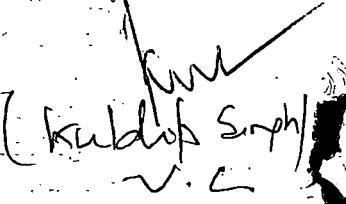
Mr. P.V. Calla, Counsel for applicant

Mr. Anupam Agarwal, Counsel for respondents

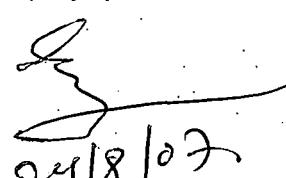
Heard. order Reserved


R.R. Bhondara
(R.R. Bhondara)

M (A)


(Kuldip Singh)
V.C.

24-8-2007. The order has been pronounced
today by the same Bench


24/8/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 24th day of August, 2007

CORAM :

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN
HON'BLE MR.R.R.BHANDARI, ADMINISITRATIVE MEMBER

1. ORIGINAL APPLICATION NO.57/2006

Shiv Singh,
Senior Gangman,
O/o Senior section Engineer,
P.Way (South),
Kota.

... Applicant

(By Advocate : Shri P.V.Calla)

Versus

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (MP).
2. Divisional Railway Manager (Estt),
West Central Railway,
Kota Junction,
Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

2. ORIGINAL APPLICATION NO.58/2006

Sadan Singh,
Senior Gangman,
O/o Senior section Engineer,
P.Way (South),
Kota.

... Applicant

(By Advocate : Shri P.V.Calla)

Versus

1. Union of India through General Manager, West Central Railway, Jabalpur (MP).
2. Divisional Railway Manager (Estt), West Central Railway, Kota Junction, Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER

PER HON'BLE MR.R.R.BHANDARI

OA 57/2006, filed by Shri Shiv Singh, and OA 58/2006, filed by Shri Sadan Singh, under Section-19 of the Administrative Tribunals Act, 1985, are similar in nature and are being disposed of by this common order. The applicants in these OAs have prayed for the following relief :

"i) the record relating to this case viz. the marks obtained by the candidates shown in the result Ann.A/4 including the applicants may kindly be called for;

ii) by an appropriate order the impugned panel may kindly be declared illegal and the respondents may be directed to issue final list as per the marks obtained by the candidates in the written examination in view of the result dated 10.1.2006 (Ann.A/4)."

2. The factual matrix of the case, as available from the records and arguments, is as follows :

i) North Western Railway vide letter dated 8.4.2005 (Ann.A/2) held selection for filling up of 12 posts of PWS under 25% Limited Departmental Competitive Examination (LDCE) quota. These 12 posts consisted of 6 for general category, 3 for SC and 3 for ST. It was clearly mentioned in the circular that the selection will only be on

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the basis of written examination from the candidates eligible for such selection.

ii) North Western Railway, vide letter dated 27.6.2005 (Ann.A/3), informed all concerned, the names of 73 candidates who were found provisionally eligible for the selection.

iii) North Western Railway conducted a written test on 24.9.2005 and vide their letter dated 10.1.2006 issued a list of 15 candidates, who qualified in the written examination. Applicants' name appeared at S.No.4 and 5 respectively in the said list. This order mentioned that this is the result of written examination and it should not be treated as a select list.

iv) North Western Railway, vide (Ann.A/1), giving reference to the previous letters, brought out the final list of the selected candidates. This was issued on 2.2.2006 and the names of the applicants did not appear in this list.

v) Aggrieved from issue of this list, the applicants have filed the present OAs before this Tribunal and asked for the relief, mentioned earlier. The ground for the relief was that their position in the written test was much above many other candidates, whose names appear in the final select list, and for the post of LDCE the written examination should only be the criteria.

3. Learned counsel for the applicants quoted the recent judgment of this very Bench of the Tribunal passed in OA 464/2004, **Shivraj Singh Solanki v. Union of India and others**, decided by the Division Bench on 25.7.2007.

4. Learned counsel for the respondents argued the case and brought out that the selection has been done

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as per RBE No.263/98, which gives procedure for filling up "general selection" posts. In this circular, learned counsel for the respondents quoted para-2(ii) as below :

"(ii) The final panel will be drawn up from amongst those securing 60% marks in the professional ability and 60% marks in the aggregate, in the order of seniority, provided that those securing a total of more than 80% marks will be classed as outstanding and placed on the top of the panel in order of seniority."

The learned counsel also mentioned that applicants' name in the original seniority list were at much lower position and nobody junior to them was selected in the final select list. He also mentioned that the selection was as per provisions of the IREM.

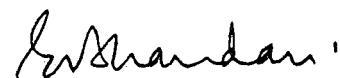
5. During the course of arguments, learned counsel for the respondents agreed to the fact that applicants' name in the written test were at much higher position, as mentioned in Ann.A/4, and they were not selected only because in the seniority their names figure at much lower position. During arguments, learned counsel for the respondents could not satisfy that RBE No.263/98 is applicable to LDCE and he could not also give any specific circular by which the select list for LDCE has to be drawn.

6. In absence of this, we have to go by what has been mentioned in the original circular calling for the applications. This was as per the office order No.E/E/1025/9 Part-I dated 8.4.2005 (Ann.A/2). In this circular, it has been very clearly mentioned that "the selection will be only on the basis of written examination" (translated from Hindi and emphasis added). Further, the very meaning of LDCE means it is Limited Departmental Competitive Examination and, therefore, amongst the eligible and successful candidates whosoever gets higher position in the test will be selected.

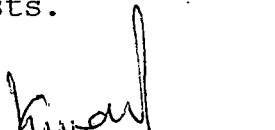
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Accordingly, this Tribunal finds that the action of the respondents, by adopting a criteria which is not in conformity with the LDCE procedure as well as the circular dated 8.4.2005, issued for conducting this selection, is arbitrary and not justified.

8. Accordingly, the OA is allowed and the impugned order dated 2.2.2006 (Ann.A/1) is quashed and set aside. The respondents are directed to recast the panel of successful candidates on the basis of written examination only in the LDCE and to promote the applicants in case they find place in the panel, alongwith other consequential benefits flowing out of quashing of the impugned order. No costs.



(R.R.BHANDARI)
MEMBER (A)



(KULDIP SINGH)
VICE CHAIRMAN

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