

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.2838/2018

**Reserved on:30.07.2018
Pronounced on:01.08.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

Ashwani Kumar Shah,
Aged 38 years, Chief Vigilance Inspector,
S/o S.R. Shah
Aged about 38 years,
CVI/Ele./HQ, Northern Railway,
R/o Q.No.B-2., Block No.228,
Kishan Ganj Railway Colony,
New Delhi-110 007.Applicant

(By Advocate: Shri Pramod Kumar)

Versus

1. The Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi-110 001.
2. The Chairman,
Through Secretary,
Railway Board,
Ministry of Railways,
New Delhi-110 001.
3. The Principal Chief Electrical Engineer,
Northern Railway,
Baroda House,
New Delhi-110001.
4. The Principal Chief Personnel Officer
Northern Railway,
Baroda House,
New Delhi.
5. General Manager,
Northern Railway,

Head Quarter Baroda House,
New Delhi-110 001. ...Respondents

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Chief Vigilance Inspector in the respondent-Northern Railway, filed the OA seeking the following reliefs:-

- “(a) Direct the respondent to cancel the process of selection for promotion from Group “C” to Group “B” to the post of AEE/NR level-8 as per 7th CPC (PB 9300-34800 + GP 4800) against 30% quota vacancies for assessment year 01.05.2017 – 30.04.2019 in the Electrical Engineering Department/NR for which interview scheduled to be held on 31.07.2018;
- (b) Direct the respondents to conduct detail investigation and to take corrective measure on the complained irregularities;
- (c) Direct the respondents to re-conduct the LDCE for selection for promotion from Group “C” to Group “B” to the post of AEE/NR level-8 as per 7th CPC (PB 9300-34800 = GP 4800) against 30% quota vacancies for assessment year 01.05.2017 – 30.04.2019 in the Electrical Engineering Department/NR;
- (d) Direct the respondents to produce answer sheets of all the candidates who have secured minimum passing marks in either of the question paper along with assessment of marks/mark sheet prepared to satisfy this Hon’ble Court that no overwriting/cutting in marks has been done in the answer sheets of failed candidates who has passed in either of the question paper; and
- (e) Pass such other order/s as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case”.

2. It is submitted that the applicant was one of the eligible candidates for the written test held on 25.03.2018 for selection for promotion from Group “C” to Group “B” to the post of AEE/NR level-8 as per 7th CPC (PB 9300-34800 = GP 4800) against 30% quota vacancies for assessment year 01.05.2017 – 30.04.2019 in

the Electrical Engineering Department/NR. Accordingly, in pursuance of Annexure A-2 advertisement dated 05.07.2017, the applicant has applied and accordingly participated in the Limited Departmental Competitive Examination (LDCE) conducted on 25.03.2018. The respondents, vide Annexure A-8 order dated 06.06.2018 declared the results of the written test and against the 13 vacancies, they have selected only 11 candidates vide the said Annexure A-8. In pursuance of the same, vide the Annexure A-1 order dated 18.07.2018 respondents called the said 11 candidates for viva-voce test to be conducted on 31.07.2018.

3. The applicant submits that he fared very well in the written examination held on 25.03.2018 but he was not selected by the respondents. He further submits that even in the earlier Limited Departmental Competitive Examination, i.e., written examination he was qualified but this time the respondents not selected the applicant. After obtaining certain information under Right to Information Act, 2005, he came to know that lot of discrepancies had occurred in preparing the question paper and also in assigning marks to the questions therein. The respondents intended to help certain persons in the conduct of the LDCE written examination against the rules. Accordingly, he prays that a direction be issued to cancel the entire process of selection for promotion to the post of AEE/NR.

4. Heard Shri Pramod Kumar, the learned counsel for the applicant.

5. The applicant, who participated in the written examination conducted on 25.03.2018, has kept quite till the respondents declared the results, without raising any objection about the framing of the questions or allotment of marks thereto. Only after the respondents declared the results of the written examination and that after coming to know that he was not selected, then only the applicant started raising objections against the method and mode of written examination conducted on 25.03.2018.

6. In **Madan Lal & Others Vs. The State of Jammu and Kashmir and Another 1995 SCC (3) 486**, it was held as under:-

“....It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. In the case of Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors., (AIR 1986 SC 1043), it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner”.

7. Further, the applicant also failed to show exactly what are the discrepancies occurred in framing of the questions or allotment of marks thereto.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly, the same is dismissed. No costs.

(PRADEEP KUMAR)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS