

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/00818/2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

A. DASGUPTA & ORS.
VS

UNION OF INDIA (E.RLY.)

For the applicants : Mr.S.K.Dutta, counsel
Mr.B.Chatterjee, counsel

For the respondents : Mr.B.L.Gangopadhyay, counsel

Order on : 10.6.16

O R D E R

Ms.Bidisha Banerjee, J.M.

The applicants four in number had participated against a notification dated 18.6.15 for formation of panel of seven (07) posts of Staff & Welfare Inspector in PB-2 with Grade Pay - Rs.4200/- for Headquarters Unit against the following break up of posts - UR-06, SC-01 and ST- Nil, as against 35% to general selection from all departments. After going through the ^{rigorous} regards of the selection process comprising of written test etc. they were enlisted as qualified in written test held on 24.1.16 vide order dated 5.4.16. Their service records and APAR/Work Reports were called for, for early finalisation of the selection.

Unfortunately on 6.5.16 the Railway Board issued an order whereby and whereunder, for having allowed the RPF/RPSF personnel to appear in the said selection, a decision was taken that selections/panels where RPF/RPSF were allowed for any reason but not finalised till date would cease to exist and accordingly on 23.5.16 the selection was treated as cancelled.

Further on 1.6.16 as would be evident from a supplementary affidavit further selection notice was issued expressly debarring RPF/RPSF personnel to appear in the selection.

2. The applicants having already qualified in the written test against UR vacancies, have challenged the Board's circular dated 6.5.16, the cancellation order dated 23.5.16 and have sought for a stay on the fresh notification dated 1.6.16 on the ground that since RPF/RPSF personnel were wrongly allowed by the administration to participate despite having full knowledge of a Board's order dated 11.8.03 expressly debarring such personnel in GDCE and any other departmental selections, in absence of any fault on the part of the present applicants who stood already selection, the authorities ought to have segregated such ineligible RPF/RPSF personnel and proceeded with the written test result.

3. In support of their contention Id. Counsel for the applicants relied upon a decision rendered by the Hon'ble Apex Court in ***Inderpreet Singh Kahlon & Ors. -vs- State of Punjab & Ors. [(2006) 11 SCC 356]*** wherein in a case where a selection process was tainted with the vices of malafide at the behest of the Chairman, Punjab Public Service Commission, the Hon'ble Apex Court held that

"the High Court ought to have made a serious endeavour to segregate the tainted from the non-tainted candidates. Though the task was certainly difficult, but by no stretch of imagination, was it an impossible task"

and that

"Honest candidates should not be compelled to suffer without there being any fault on their part just because the responde its find it difficult to segregate the cases of tainted candidates from the other candidates. The task may be difficult for the respondents, but in the interest of all concerned and particularly in the interest of honest candidates, the State must undertake this task. The unscrupulous candidates should not be allowed to damage the entire system in such a manner where innocent people also suffer great ignominy and stigma."

Ld. Counsel also referred to a batch case decided by this Tribunal starting from OA 1928/10 on 4.2.11 where following ***Inderpreet Singh Kahlon*** orders cancelling appointment was quashed and set aside.

4. It could be noticed that in the written test result that was published on 4.4.16 (Annexure A/1) all the four applicants have shown to have qualified against the four UR vacancies and they figured at first four positions of the list.

Further it also seems that although a few Constables have qualified having secured 20% marks under the category "Best among the failed candidates" when SC vacancy is only one, the authorities could very well make an honest endeavour ^{for} and segregating such Constables ^{from} the general candidates, was not arduous task.

5. Therefore in view of the decision supra we restrain the respondents from finalising the selection process initiated on 1.6.16. The respondents are directed to file reply within four weeks. Rejoinder, if any, be filed within two weeks thereafter.

6. List on 16.8.2016 for admission hearing.

(JAYA DAS GUPTA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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