



**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA**

Pronounced on - 09/11/2016

1. OA No. 1097 of 2015
2. OA No. 437 of 2015
3. OA No. 01 of 2016

CORAM:

THE HON'BLE MR. JUSTICE V.C. GUPTA, JUDL. MEMBER
THE HON'BLE MS. JAYA DAS GUPTA, ADMN. MEMBER

OA No. 1097 of 2015

DIP DAS & ORS
V/S
UNION OF INDIA & ORS.

OA No. 437 of 2015

KASHINATH MANDAL & ORS
V/S
UNION OF INDIA & ORS.

OA No. 01 of 2016

SUSAVON TIKADASR & ORS
V/S
UNION OF INDIA & ORS.

For the Applicants : Mr. A. Chakraborty,
Ms. P. Mondal,
Counsel

For the Respondents : Mr. L. K. Chatterjee,
Mr. A. K. Guha,
Mr. S. Banerjee,
Counsel

ORDER

JUSTICE V.C. GUPTA, JM:

Tersely stated, the case of the applicants, in all these three cases, is that in pursuance of the Employment Notification

(Signature)

No. 0112 dated 16.08.2012 issued by the Railway Recruitment Cell (RRC), Eastern Railway, Kolkata, all of them had applied and appeared at the written test conducted by the Railway and having come out successful in the written test, they were called for Physical Efficiency Test (PET). Thereafter, as per the laid down procedure, they ought to have been sent for medical examination hereafter final panel could have been published by the Railway and out of the final panel appointments could have been issued by the Railway Respondent. It has been stated that though they have come out successful in both i.e. written and PET they were not called to appear at the medical test and on the other hand called some of the candidates for medical test at their sweet will and fancy in a pick and chose manner. It has been alleged that even without publishing the final panel the respondents have also issued orders of appointment to some of the candidates who had come out successful unlike the applicant in the written and PET only. As these cases are analogous and similar question of law and facts are involved, thus, they are being decided by this common judgment.

2. The relief sought by the applicants in all the three cases are almost same and similar and thus for the sake of convenience the relief sought in OA No. 1097 of 2015 is extracted here in below.

"a) An order do issue directing the respondents to call the applicants to appear in the



medical test for appointment in Group D post before preparation of the final panel as they were declared suitable in the written test and the PET;

b) An order do issue directing the respondents to prepare waiting list from amongst the eligible candidates;

c) An order do issue directing the respondents to prepare final panel after conducting medical test;

d) Leave may granted to file this Original Application jointly under Rule 4 (5) (a) of CAT (Procedure) Rules, 1987."

(Extracted as such)

2. Despite due opportunities, no reply has been filed by the Respondent-Railways.

3. We have heard the learned counsel for both sides and perused the records.

4. The learned counsel appearing for the Respondents have submitted that the points and issues involved in these OAs were in fact the points/issued raised in a batch of cases namely OA Nos. 1680/2015 & Ors and this Tribunal after taking note of various aspects of the matter vide order dated 6th October, 2016 negated the stand of the applicants therein and dismissed all the cases and, therefore, by applying the said order of this Tribunal, the present OAs are also liable to be dismissed.

5. We have gone through the common order dated 07.09.2016 in OA No. 1680/2015 vis-a-vis the records of these OAs. We find that the sole question came up for consideration in all those cases as also in the present OAs are as to whether after



qualifying the written test and PET, the RRB is under obligation to call each and every candidates for medical test. These controversies have been dealt into in great detail in the common order dated 06th October, 2016 and ultimately negated the stand of the Applicants. The relevant portion of the order, referred to above, is quoted herein below :

10. The scheme shows that the merit is prepared on the basis of written examination and all candidates who qualified in the PET also are not necessarily be called for medical examination because candidates are called in order of merit for medical examination. If the number is equal to the vacancies is fulfilled it would not be necessary to call for other candidates for medical test who have even qualified in the PET. The Respondents, in this regard have categorically stated that candidates who obtained the prescribed marks in the written test are called for PET as per the merit in the ratio 1:3 of notified vacancies which is followed by documentary verification. The PET is of qualifying in nature and is followed by document verification and the candidates to a limited extent in the ratio 1:1 as per merit are sent for medical examination of relevant standard. It has been stated that they have not ever violated the order of the Tribunal. It has been stated that the applicants of the instant OA have failed to come in the zone of consideration as per merit against EN No. 0112 and in this regard, the respondents have furnished a list showing the details of the candidates applied, appeared and got qualified which is extracted herein below for ready reference:

1	Total vacancies advertised in Emp Notice No. 0112	5847
2	Candidates appeared for written examination	5,87,448
3	Candidates qualified in written examination	50,850
4	As per Rules if vacancies notified are	16,950



	more than 1,500 candidates to be called for Physical Endurance Test (PET) 3 times the vacancies advertised (called for PET in order of marks obtained in written examination)	
5	Candidates qualified in PET	13,636
6	Candidates sent for medical examination from among the candidates qualified in PET (again on the basis of initial order of merit as per written examination)	5,938
7	Duly qualified candidates against Emp Notice No. 0112 (Panel finally published 26.9.2015 on the web site)	5709
8	The short fall of 138 (5,847-5,709) was to be filled up by PWD (Persons with Disabilities) as per Supreme Court Jt. (Present applicants are not PWDs).	

11. The Applicants have also challenged the process of Recruitment that as per the Information obtained under RTI Act, 2005, candidates were given mark more than 100 which is not possible/feasible and as such there was irregularity in evaluating the answer scripts. A challenge has also been made that 3573 candidates in the OBC category and 2372 in the SC category qualified in the written test whereas 3732 in OBC category and 2732 in SC category candidates were called for PET which is more than the candidates qualified in the written test and as such there was no fairness in the selection. All these things have been replied by the respondents in paragraphs 14, 15 and 16 of the reply filed by them which are quoted herein below for ready reference:

" 14. That with regard to the statements made in paragraph 4.m.i of the said application it is stated that the total nos of questions in any Question Booklet is 100 in any of the set of Question Booklet pertaining to E.N. No. 0112 and the total marks is 100. The explanation regarding score of above 100 out of total 100 marks is as follows:

Normalization is a statistical tool to equate/judge the merit position/standard of the participating candidates in the Written

[Handwritten signature]

Examination in different shifts of examination with different sets of Question Booklet for the same post against one notification. There is a statically established formula being used universally and in Indian Railways since the examination are conducted in more than one shift/days batches in all RRB's and all RRCs are following the same formula to determine the merit position of the candidates as a whole.

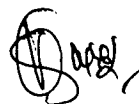
Candidates are getting the benefits of the normalization with respect to other candidates who have appeared in other shifts.

By virtue of normalization, no candidate can have any claim regarding the difficult and easier question sets of corresponding shifts and the merit of all the candidates appeared in the examination are judge without any doubt.

The above decision was taken in full Board meeting at Railway Board.

Further it is mentioned that 0.33 marks is deducted for every wrong answer from the raw score of the candidate before normalisation. So for every three (03) wrong answer one (01) mark is deducted. So, the question raised stands invalid.

15. That with regard to the statements made in paragraph 4.m.ii of the said application it is stated that the posting order is dependent on firstly on merit, then medical category in which the candidate is declared fit, then choice of post indicated in the application form. Hence, the allegation is strongly denied.



16. That with regard to the averments made in paragraph 4.m.iii of the said application it is stated that the directive of Railway Board the date of examination for alphabetic group of candidates of "S"&"1" was on 17.11.2013 and for "M"&"T" was on 27.10.2013. Due to typographical error the name of "TUMPA" was printed as "IUMPA". As there was no fault of the candidate, she was considered and allowed to give her written examination 17.11.2013 by invigilators. The same was corrected after written examination. Allegation is strongly denied."

12. It is to be noted that this Tribunal while deciding the Original Application No. 154 of 2015, cited supra, in paragraphs 4 & 5 discussed the matter in great detail in which the Tribunal expressed his satisfaction on the reply submitted by the Respondents in this regard.

13. So far as the controversies raised with regard to written examination and variance of the candidates called for PET test are concerned, this Tribunal in earlier occasion already recorded its satisfaction with regard to those questions and discussions made in paragraphs 4 and 5 of the aforesaid order rendered by this Tribunal earlier is relevant and needs no reiteration/repetition.

Moreover, the reply submitted by the Respondents in this regard in paragraphs 14, 15 and 16 quoted herein above, makes it abundantly clear that that there was no irregularity at all in conducting the written test and declaration of the result and preparation of final list of successful candidates for appointment. Further paragraph 7 of the earlier judgment is very important and at the risk of repetition the same is re produced herein below:

"7. In such view of the matter and for the ends of justice the stay in regard to sending the candidates for medical examination is vacated. The present OA as well as the connected OA are disposed of with a direction upon



the respondents to publish the final merit list or final panel out of Employment Notification 0112 after holding medical examination of the candidates who have clerked upto PT and only thereafter issue appointment orders to the empanelled candidates."

(ii) There is a clear mandate in the earlier order that the Respondents to publish the final merit list or final panel out of Employment Notification No. 0112 after holding medical examination of the candidates who have cleared upto PET and only thereafter issue appointment orders to the empanelled candidates. In this regard the discussions made in paragraphs 5 & 6 of the earlier order cannot be ignored wherein the respondents have stated before the Tribunal that as the large number of candidates had applied for the selection, the scrutiny and the documents verification of all such candidates is time consuming. However, the respondents agreed that before despatching any further appointment letter the respondents shall first publish a final panel of selected candidates after conclusion of medical examination of the candidates who have cleared the PET. The learned counsel for the applicants had also made a supine submission at bar before the earlier bench of the Tribunal that they have no objection if such a course is adopted by the Respondents. It is crystal clear that candidates who have qualified in the written test are large in number and out of which certain percentage considering the number of vacancies sent for PET. The outcome of the candidates who qualified in the PET were considered for further process of medical examination considering the number of vacancies. In such a manner every candidates who qualified in the PET is not necessarily be called for medical test and if the number of vacancies and number of suitable candidates after medical examination are available there is no further need of the medical test of the remaining candidates who qualified in the PET.

15. There is no grievance of the applicants that the medical test was done by the



respondents not in accordance with the merit position secured by the candidates in the written test nor they named any candidates who although secured less mark in the written test in comparison to the applicants was called for the medical test ignoring the merit. In such a view of the matter we are of the view that the orders passed by this Tribunal has not been violated by the respondents rather the orders have been strictly complied with by the Respondents. It is also clear that the final panel was also published before filing the OAs. Hence, if we direct the Respondents to get the medical test of the applicants done this will be a futile exercise because they did not have secured such mark in the written test so as to be accommodated within the vacancies notified and filled up by the Respondents. Therefore, their medical examination not at all necessary and once the direction has been complied with by the Respondents by preparing the final merit list in terms of the process of recruitment by following the Rules, we do not find any illegality in publishing the final list.

16. All the OAs, MAs and CPC sans merit and are accordingly dismissed. No costs."

6. No other material is available on these records so as to take a different view than the view already taken by this Bench in the order referred to above. Thus, going by the earlier orders of this Tribunal dated 6th October, 2016 of this Tribunal, referred to above, these OAs are held to be without any merit and are accordingly dismissed by leaving the parties to bear their own costs.

(Ms.) Jaya Das Gupta
Administrative Member

(Justice V.C. Gupta)
Judicial Member

Knm