

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.350/00476/2014

Date of order : 11.12.2015

Present : Hon'ble Justice Mr. G. Rajasuria, Judicial Member
Hon'ble Mrs. Jaya Das Gupta, Administrative MemberRATAN LAL DAS
VS.
UNION OF INDIA & ORS.For the applicant : Mr. N. Roy, counsel
For the respondents : Mr. A.K. Dutta, counselORDERPer Justice G. Rajasuria, J.M.

Heard both.

2. This O.A. has been filed seeking the following reliefs:-

"a) To issue direction upon the respondents to give promotion to the applicant according to the seniority basis for the post of JE-II/Diesel/Mech./Elect Inter apprentice forthwith;

b) To issue further direction upon the respondents to give promotion to the applicant according to the written test which was held on 02.02.2011, the applicant got highest marks to Sri Mukesh Pandey. So, the applicant's promotion may be given for the post of JE-II/D/Mech./Elect Inter apprentice.

c) To produce connected departmental record at the time of hearing.

d) Any other order or orders as the Ld. Tribunal deem fit and proper."

3. The Id. counsel for the applicant would detail and delineate, portray and project the relevant facts which could succinctly and precisely be set out thus:-

For the post of Junior Engineer-II/D/Elect/Inter Apprentice, the applicant, Respondent No.6 and others participated in the examination as



in-service candidates. In that, the result was published as found in Annexure A-9, which is extracted hereunder for ready reference:-

"As sought for vide letter quoted under reference the parawise & item wise remarks detailed are furnished below

Item-1 Total number obtained by the candidate =(Numbers obtained in written test-31+ record of service 18=Total-49)

Item -2 Copies of Last 03(Three) years ACR are enclosed

Item-3 No. of marks obtained by all the qualified candidates are furnished below:-

Name & Designation	Marks obtained in written test	Marks on record of service	Total	Remarks
Sri Anup Kr. Das(UR), D/Tech./I/Elect	37.5	22.0	59.5	Qualified and recommend-ed
Sri Mukul Roy(SC),D/Tech/II/Elect	31.0	18.0	49.0	Qualified
Sri Santanu Mitra(UR), D/Tech/II/Elec	30.0	18.0	48.0	Qualified
Sri Ratan Lal Das(SC), D/Tech/II/Elect.	35.0	20.0	55.0	Qualified
Sri Shrawan Kumar(SC),D/Tech/II/Elect	illegible	16.0	48.0	Qualified
Sri Bhubenjoy Das(SC), D/Tech/II/Elect.	43.0	12.0	55.0	Qualified
Sri Mukesh Pandey(UR)D/Tech./II/Elect	32.0	24.0	56.0	Qualified
Sri Ashoke Kr. Mahato(UR),D/Tech/II/Elect	31.5	18.0	49.0	Qualified
Sri Abhijit Sarkar(OBC)D/Tech/II/Elect	40.0	14.0	54.0	Qualified
Sri Rakesh Kumar(OBC)D/Tech/II/Elect	35.5	18.0	53.5	Qualified
Smt. Sumita Ganguly(UR)D/Tech/II/Elect	34.5	22.0	56.5	Qualified and recommend-ed

It so happened that Sri Ratan Lal Das had filed the O.A.No.1090 of 2011 challenging the recommendations made by the Selection Committee

whereupon the C.A.T. on 13.07.2012 passed an order, the operative portion of it would run thus:-

"11. In their absence the OA is disposed of by giving a direction to the respondents to consider the result of the entire selection after hearing the applicant and selected candidate and to pass a speaking order in the light of circular noted above, subsequent circular of Railway Board if any, and law laid down in case of **Kaila Kumar Pallwal(supra)**. This exercise be completed within 2 months from the date of receipt of the order. There shall be no order as to costs. M.A. also stands disposed off."

Thereafter, in pursuance of the order passed by the C.A.T., the concerned candidates were given opportunity to make representation vide communication dated 13.09.2012(Annexure R-7). Thereafter Annexure R-8, the communication dated 13.10.2012 emerged, the operative portion of it would run thus:-

"On the basis of the notification vide No.E/254/Sr. Sub/D/Pt.IX dtd.02.06.2010 the written selection for the post of Inter apprentice mechanics/Diesel/SGUJ(JE/II) was held on 02.02.2011 and the result for the same selection was issued vide Memorandum No.E/254/Sr.Sub/D/Pt.IX dtd.17.06.2011 is cancelled by the Competent Authority."

The staff who were promoted earlier on the basis of the said panel is reverted to their former post with immediate effect."

Challenging and impugning the same Anup Kumar Das filed an O.A. In that O.A.No.209 of 2013 the order dated 19.06.2013 was passed by C.A.T., the operative portion of it would run thus:-

"3. Considering the averments made by the Ld. Counsel for the applicant and keeping the interest of justice in mind we are prima facie satisfied that a direction be issued to the GM, Maligaon, N.F. Railway to consider and decide the appeal of the applicant contained in Annexure A-7 to the O.A. within a period of 3 months from the date of receipt of certified copy of this order and the decision so taken may be communicated to the applicant. The applicant is also directed to provide a copy of the appeal dated 18.12.2012 as contained in Annexure A-7 to the O.A. along with copy of the order passed by this Tribunal."

Based on that the General Manager on 26.12.2013 passed the speaking order. The operative portion of it would run thus:-

"On reviewing this case it is seen that though the notification was flawed but no staff as such was deprived from the opportunity to opt for the said selection since a lower qualification was notified. (it would have been otherwise had a higher qualification been notified). Moreover, Sri Anup Kr. Das is having the qualification of Act Apprentice Pass and therefore was eligible in terms of RBE No.136/2002 to appear in the selection of JE/II/Dsl/Elec.

To meet the ends of justice, it would be fair to only amend and not cancel the selection and draw up a fresh panel based on the result in order of merit keeping in view the minimum(not legible) qualification as per the rules."

As per the said speaking order Sri Alok Kumar Das as the one having the qualification of "Act Apprentice" and one Mukesh Pandey having requisite qualification were given appointment as Junior Engineer, whereupon challenging the appointment of Mukesh Pandey this O.A. has been filed on various grounds.

The Id. counsel for the applicant inviting the attention of this Court to the questionnaire and the answer sheet pertaining to Mukesh Pandey, Annexure R-6 hereunder, would highlight that even though Mukesh Pandey gave apparently two insufficient answers and two totally wrong answers, the valuer gave marks and thereby in Part III of the Questionnaire 18 marks were awarded out of 20. He also pointed out the defects in evaluation which would be referred to in detail infra; accordingly the total marks awarded to Mukesh Pandey should be reduced by at least 4 marks, then in that case, he would be getting lower mark than Ratan Lal Das. Accordingly he would pray for suitable direction to the Railway Authority to reconsider the entire evaluation and the consequent process of selection.

4. Per contra, the Id. counsel for the respondents would submit that the General Manager properly and appositely considered the entire matter and accordingly appointment was given to Mukesh Pandey and also to Alok Kumar Das warranting no interference at the hands of the C.A.T.

5. The point for consideration is as to whether Part III of the Questionnaire dated 02.02.2011 was answered properly by Mukesh Pandey, for which 18 marks were awarded in favour of Mukesh Pandey even though there were apparent mistakes committed by him in the relevant answers given by him.

6. The Id. counsel for the applicant has drawn our attention to the copy of the Questionnaire concerned and the answers given by Mukesh Pandey, which he got through RTI. There are ten abbreviations contained in the said Part III and for the abbreviation No.I, i.e. C.M.P.E., the correct answer was "Chief Motive Power Engineer", but the answer given by Mukesh Pandey was "Chief Mechanical Power Engineer" and for abbreviation No.III, A.A.C., the correct answer was "Average Annual Consumption", but he has given some other answer which is not correct. Similarly, for abbreviation No.V i.e. I.G.B.T., the answer given is "Integrated Gate Breaking Trans.....(not legible)", but the correct answer was "Insulated Gate Bipolar Transistor", for abbreviation No.VIII i.e. P.W.M., wrong answer was given which is not legible, however, it ends with the word "module" which could not be the correct answer as the correct answer was "Pulse Width Modulation".


Be that as it may, even if 2 marks are taken as awarded without any basis for abbreviation V and if it is deducted then automatically the marks obtained by Sri Pandey comes below some other candidate in the list. In such a case, naturally it warrants revaluation. The mistake might be a tip of an iceberg, hence, it would be just and proper for the Railways concerned to reevaluate all the papers in the said list and arrive at a proper and legal conclusion.

7. As such, we issue the following direction:-



The respondent authority shall within a period of three months from the date of receipt of a copy of this order, reevaluate the papers of the concerned selected candidates and arrive at a proper conclusion regarding the consequential process of selection of the candidates leaving no room for any further complication in the matter as this is the third round of litigation in connection with the selection process.

8. The O.A. is disposed of. No order as to cost.


(Jaya Das Gupta)
Administrative Member


(G. Rajasuria)
Judicial Member

s.b