

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00977/2016
Date of Order : 20-12-2018

Between :

1. Manishkumar Pandey S/o late Dineshwar Pandey,
Aged about 33 years, Occupation Commercial Portor
Station Superintendent Office, Kha
ndwa RS, Nanded
Division, South Central Railway Colony, Khandwa.
2. Santhosh Upadhyaya S/o Devendra Upadhyaya,
Aged about 27 years, Occupation Commercial Portor,
Station Superintendent Office, Adilabad, Nanded
Division, Adilabad, r/o 104 E, Railway Colony,
Adilabad.Applicants

AND

Union of India rep. by

1. The General Manager, S. C. Railway,
Rail Nilayam, Sec'bad.
2. The Senior Divisional Personnel Officer,
S. C. Railway, Nanded Division, Nanded.Respondents

Counsel for the Applicant: Mr. K. Siva Reddy

Counsel for the Respondents : Mr.N.Srinatha Rao, SC for Rlys

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER
THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Mr. K. Siva Reddy, learned counsel for the applicant and Mr. N. Srinatha Rao, learned Standing counsel for Railways.

2. In response to the notification dated 27.11.2015 for filling up

vacancies of 39 Ticket Examiners in 33 1/3% promotional quota in the Commercial Department, several candidates applied and appeared for the written examination. The applicants who were Commercial Porters were not eligible to write the examination on the ground that they have not completed the requisite years of service in the feeder category. However, the examination was conducted on 10.05.2016 but subsequently the examination was cancelled by the Railways by order dated 21.07.2016 purportedly on administrative grounds.

3. The second examination was proposed to be conducted on 14.09.2016 by which date, according to the applicants, they became eligible to write the examination, they approached the Tribunal and filed the present Original Application. The Tribunal passed an interim order directing the Respondents, 'not to finalize the said selection without the leave of this Tribunal'. The applicants were not permitted to write the written examination.

4. The relief prayed for in the OA is to cancel the notification and to issue fresh notification for filling up the 33 1/3% quota of promotional quota in Commercial Department.

5. Mr. K. Siva Reddy, learned counsel appearing for the applicant would submit that in the impugned order cancelling the first written test, the Respondents did not assign any reasons except stating that it was for administrative reasons. However, in the reply affidavit, the Respondents

mentioned that, question papers were not set as per the guidelines and also improper evaluation of the Answer papers. Therefore the department cancelled the written examination.

6. However, it is the contention of the applicants that since all the candidates who appeared in the 1st written examination failed in the said examination, the Department conducted the second written examination. In any event, it is the contention of Sri N. Srinatha Rao, learned Standing counsel for Respondents that since the second written examination was conducted and several candidates appeared in the examination, it would not be appropriate on the part of the Tribunal to cancel the notification itself. The learned standing Counsel therefore seeks a direction in the OA to permit the department to publish the results and to proceed with the selection process further.

7. Identical issue fell for consideration in a co-ordinate Bench of the Tribunal wherein the Railway Board instructions and other judgments have been considered and ultimately the Tribunal in OA No.474/2018 and OA No.542/2018, vide order dated 15-11-2018 quashed the notification. One of us viz., Hon'ble Sri B.V. Sudhakar, Administrative Member was one of the parties who passed the said order. The co-ordinate Bench ultimately cancelled the notification itself and directed issue of fresh notification. When once the written examination held pursuant to the notification was cancelled and the second written examination was proposed to be conducted on any subsequent date, if fresh notification was not issued, the

rights of the several candidates who subsequently became eligible would be jeopardized. Therefore the proper course according to us would be to cancel the notification dated 27.11.2015 and direct the Respondents to issue fresh notification for filling up the vacancies.

8. Therefore, in the present OA we are not inclined to take a different view which was taken in OA No.474/2018 and OA No.542/2018, dated 15.11.2018. The OA therefore succeeds. The notification dated 27.11.2015 issued for filling up of 33 1/3% of promotional quota in Commercial Department / Ticket Examiner posts is quashed and set aside. It is needless to mention that both the written tests in consequence thereon also stands cancelled. The Respondents are therefore directed to issue fresh notification for conducting fresh examination for the post of Ticket Examiner in the Commercial Department.

9. With the above direction, the Original Application is allowed. In the circumstances of the case, there shall be no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 20th December, 2018.
Dictated in Open Court.

