

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTINGS: BILASPUR

Original Application No.203/00101/2015

Bilaspur, this Wednesday, the 03rd day of April, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Bhaskar Guha S/o Late A.B. Guha aged about 36 years working as CLA/SECR R/o Near Bony Agency Deovri Khurd Bilaspur Chhattisgarh 495004

-Applicant

(By Advocate- **Shri A.V. Shridhar**)

V e r s u s

1. Union of India Through the Secretary Railway Board Rail Bhawan Raisena Road New Delhi 110001
2. Advisor Vigilence Railway Board Rail Bhawan Raisena Road New Delhi 110001
3. Director Vigilence Traffic Railway Board Rail Bhawan Raisena Road New Delhi 110001
4. Vineet B Tiwari CMI Mumbai Central Western Railway c/o Senior DCM Western Railway Mumbai Central Maharashtra 400008
5. Rajneesh Kumar SM, Wazirnagar c/o Senior DOM East Central Railway Danapur Bihar 801105
6. Ravindra Kumar Commercial Control HQ c/o CCM Baroda House Northern Railway New Delhi 110001

7. S.M. Viz, Guard/Express Rajdhani Link C/o Senior DOM Western Railway PO Ranipur Baroda Gujrat 391520
8. Gopal Kumar CVI c/o SDGM East Central Railway Hazipur Bihar 844101
9. Jwala Prasad CTI, c/o Principal Zoanl Railway Training Institute Bhusawal Maharashtra 425201
10. Arun Kumar Movement Inspector c/o Senior DOM Western Railway Mumbai Central Maharashtra 400008
11. Ranvijay Singh Inspector, Safety Directorate Rail Bhawan, Raisena Road, New Delhi 110001

- **Respondents**

(By Advocate-**Shri Vivek Verma**)

(Date of reserving the order:01.04.2019)

O R D E R
By Navin Tandon, AM:-

The applicant is aggrieved by his non selection to the post of Investigating Inspector (Vigilance)/Traffic.

2. The applicant has made the following submissions:-

2.1 He is working as Chief Law Assistant in South East Central Railway (SECR).

2.2 Railway Board vide notification dated 09.05.2013 (Annexure A/2) invited applications for

filling up ex-cadre posts of Investigating Inspectors (Vigilance/Traffic).

2.3 He appeared in the written examination conducted on 11.01.2014 and was called for interview on 05.06.2014.

2.4 The respondents issued the list of empanelled candidates on 05.08.2014 (Annexure A/1), in which the applicant's name does not feature.

2.5 He has obtained the tabulation sheet of the said selection and found that “(complaint received)” has been written below his name. This complaint was never provided by the respondents.

2.6 He submits that the applicant has been awarded 9 marks out of 30 in viva voce and the same is not permissible in the eye of law.

2.7 In case of respondent No.4 (Serial No.59 of the tabulated statement), the APAR of 2013-2014 has been considered which is in violation of the instructions.

2.8 The Selection Committee received the last ACR on 30.07.2014, which is after the Selection Committee has finalized the selection.

3. The applicant has prayed for the following reliefs:-

“8.a That the learned Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicant.

8.b That, the learned Tribunal may kindly be pleased to quash the panel no.2013/V-1/INSP/2/1 dated 05.08.2014 Annexure A/1.

8.c That, the learned Tribunal may kindly be pleased to direct the respondents to initiate the fresh selection process adhering to the set principles of law.

8.d Cost of the Original Application be awarded.

8.e Any other relief which the learned Tribunal deems fit and proper may be awarded.”

4. The respondents have submitted as under:-

4.1 The posts of Investigating Inspector (Vigilance)

are ex-cadre posts.

4.2 The only basis for consideration of selection is

marks obtained in written test, viva voce, ACRs and

Educational Qualifications. Based on the said criteria

the applicant stood at 19th position wherein only 8 candidates were to be empanelled/selected finally.

4.3 Out of 66 candidates who appeared in the viva voce as many as 13 candidates were awarded 9 to 10 marks in the viva voce. It clearly shows that the awarding of marks to candidates is purely on the basis of performance of the candidates.

4.4 Regarding the case of respondent No.4 (Serial No.59 of the tabulation sheet), ACR for the year ending 31.03.2011 was not available in his parent Railway i.e. Western Railway. Hence, it was decided to take average marks of the remaining two years (i.e. year ending March 2012 and March 2013) for the purpose of ACR for the third year (i.e. year ending March 2011). This was done as per Advance Correction Slip 226 of the Indian Railway Establishment Manual, Volume-I. Though, grading for the year 2013-14 was indicated in the tabulation

sheet but it was not considered while awarding marks.

4.5 ACRs of some candidates, who appeared in the viva voce, were received late from the Railways due to some unavoidable circumstances but late receiving of ACRs had not influenced the selection procedure.

4.6 As per existing instructions dated 01.02.1960 and 05.08.1980 (Annexure R/1) applicable for selection of Investigating Inspector (Vigilance), the normal establishment rules applicable to regular selection posts need not be applied in the case of selection for ex-cadre posts of Investigating Inspectors (Vigilance).

5. Heard the arguments of both the learned counsel for the parties and perused the pleadings available on file.
6. The main argument of the learned counsel for the applicant was that by writing the word “Complaint Received” below the name of the applicant, his case has been prejudiced in the selection Committee and he has

received only 9 marks out of 30 in viva voce whereas his ACR marks are 14 out of 15 and education qualification marks 5 out of 5.

7. Learned counsel for the applicant also tried to demonstrate that the movements of the relevant files in the Railway Board (Annexure A/5) demonstrates that the Selection Committee never meet together at one place and selection was done only through circulation of file.

8. Learned counsel for the respondents submitted that the Selection Committee has given the marks in the viva voce based on the performance performed in the interview. He reiterated the points mentioned in the written reply that large number of candidates was awarded 9 to 10 marks in the viva voce. He brought our attention to Shri Brahma Nand Singh (Serial No.3 of the tabulated statement) who has received 15 marks out of 15 in ACR, 5 out of 5 marks in the education and has obtained only 9 marks out of 30 in the viva voce. In comparison, the applicant has only 14 marks out of 15 in ACR.

9. Regarding the issue of the Selection Committee not meeting together at one place, the learned counsel for the applicant was asked a specific question whether all the members of the Selection Committee were present on the date of interview on 05.06.2014. He replied in affirmative.

9.1 Therefore, the allegation that the Selection Committee has not met and sat at one place is without any basis.

10. We have gone through the contents of the Original Application as well as the reply of the respondents. The respondents have averred that the Selection has been done only on the basis of merit in which the applicant appeared at 19th position whereas only 8 candidates were empanelled. This position has not been controverted by the applicant either by way of rejoinder or at argument stage.

11. Just by writing the word “complaint received” below the name of the applicant in the tabulated sheet cannot bias the whole selection committee against the applicant.

12. The respondents have also emphasised that the official being selected for the said post should be of proven integrity, therefore, the complaint received in the Vigilance Directorate against the applicant was referred to the Chief Vigilance Officer of SECR for investigation.

13. In our considered view, there is nothing on record to say that the case of the applicant was prejudiced by writing the words “complaint received” against his name. The Selection Committee consists of experts and it cannot be doubted that they have given poor marks in the viva voce only because of the fact that a complaint has been received against his name. It has been brought out that 20% of the candidates have received 9 to 10 marks against viva voce.

14. Accordingly, we do not find any merit in this Original Application and the same is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member