

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00140/2017

with

MA/051/00078/2018Date of Order:- 29 -Nov-2018**C O R A M**

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. B.V.SUDHAKAR, MEMBER (ADMN.)

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Jaya Tirkey, D/o Late Kalyan Tirkey, R/o Millat Colony, Kanke, PO & PS-Kanke, District-Ranchi.

.....Applicant.By Advocate:- Mr. Shresth Gautam.

Vs.

1. Union of India through the Divisional Railway Manager, South Eastern Railway, Ranchi, PO & PS-Ranchi, Distt.-834 001.
2. Sr. Divisional Personnel, South Eastern Railway, Ranchi, PO & PS-Ranchi, Dist-Ranchi-834 001. ....Respondents

By Advocate:- Mr. A.K.Rashidi, Addl. Standing Counsel.**O R D E R****Per B.V.Sudhakar, Member (Admn.):-**

2. The OA is filed for cancelling the written examination conducted on 12.12.2015 to the post of Jr. Clerk-cum-Typist by the Divisional Railway Manager of South Eastern Railway.

3. The brief facts of the case are that the applicant joined the respondent organisation on 10.08.2007 and was working as Peon in the Operating Department of Ranchi Division. The respondent organisation vide its notification dated 19.08.2015 notified for filling up of vacancies in the category of Jr. Clerk-cum-Typist against 33 1/3% promotional quota in General Pool of Ranchi Division. The

applicant appeared in the written test conducted against the said notification. However, the respondents cancelled the examination vide letter dated 17.05.2017. The applicant claims that through an RTI query she has come to know that she has qualified in the said examination. Further, against the similar notification in Hyderabad Division of the respondent organisation the examination was conducted and recruitment was finalised, whereas in the Ranchi Division it was cancelled and, therefore, being aggrieved over the said action, the OA has been filed.

4. The main contention of the applicant is that she was selected for appearing in the written test as per the notification in question. Being a Scheduled Tribe official she was also sent for training to prepare for the examination. After having appeared in the examination, cancelling the same without giving any cogent reasons for cancellation is irregular, is the claim of the applicant. An RTI query enabled her to know that she has been qualified in the said examination. Therefore, by cancelling the examination she has been denied a legitimate opportunity to get promoted to the next level. The action of the respondents in cancelling the examination is illegal, arbitrary, discriminatory and unfair.

5. The respondents resist the contention of the applicant by stating that the said examination was cancelled by the competent authority on 17.05.2017 for administrative reasons. The issue they faced was that the eligibility condition of SC/ST candidates is two years of regular service in the feeder grade for appearing in the

selection for promotion to the post of Jr. Clerk against 33 1/3% quota. However, on verification it was detected later that some of the SC/ST employees, who did not have the requisite service of two years, were erroneously made eligible for selection. After noticing this defect, the approval of the competent authority was taken to cancel the whole examination. The respondents have also mentioned the name of two candidates, namely, Smt. Archana and Smt. Swati Khalko who were working as Peon in the respondent organisation. It was these candidates who were erroneously made eligible for selection. The respondents also expressed the apprehension that if the examination results were announced excluding the result of the two candidates cited would result in legal complication.

6. Heard the learned counsel and perused the relevant documents on record. The learned counsel for the applicant insisted that the cancellation of the examination without assigning reasons is unfair and irregular. The learned counsel for the respondents with equal force has refuted this claim of the learned counsel for the applicant by stating that there have been genuine grounds to cancel the examination in order to bring transparency and uniformity in conducting the examination.

7. The respondents have conducted the written examination on 12.12.2015 for the post of Jr. Clerk-cum-Typist but cancelled it vide their letter dated 17.05.2017. The respondents have given the reason that some candidates who were not eligible were allowed to appear at the examination. This being a serious irregularity they have

cancelled the examination. The action of the respondents is in consonance with Railway Board 's letter No. E(NG)I-2008/PM1/22 dated 17.2.2009 ( RBE No.35/2009) which is as under:

“The Rail Board orders 35/2009 states that “whenever due to irregularities noticed in the selection procedure, competent authority decides to cancel the main examination, in such a case supplementary examination also automatically ceases to exist. Conversely, in the event there are irregularities in the supplementary examination, the supplementary may be conducted afresh without affecting the main examination. However, in case it is decided to cancel the written examination in such a case complete selection procedure shall stand cancelled.”

The respondents by cancelling the examination uniformly treated all the candidates. There is no discrimination amongst the candidates. The administration has the right to cancel the examination when a fact is brought to their notice that there are some irregularities which have crept in conducting the examination. The applicant claims that through RTI she has come to know that she has cleared the examination. It needs to be adduced at this juncture that by merely appearing in the examination and becoming eligible the applicant does not acquire the right for appointment. The respondents have clearly stated the specific reason for cancelling the examination in the reply statement as brought out in paras supra, albeit in the impugned order cited they initially mentioned the cause as administrative reasons.. Thus, we do not find any reason to intervene on behalf of the applicant as the respondents have taken an appropriate decision in regard to the developments that occurred while conducting the examination. The action of the Respondent was

as per rules . Hence, for reasons cited and facts discussed the OA is dismissed with no costs.

Sd/-  
(B.V.Sudhakar)  
Member (Admn.)

Sd/-  
(Jayesh V.Bhairavia)  
Member (Judl.)

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