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No. O.A. 350/01531/2015

Date of order: 24.9.2015

Present : Hon'ble Mr. Justice G. Rajasuria, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

1. Shri Subhadip Das,
C/o. Shri Monotosh Das,
Aged about 27 years,
Residing at Vill. Santipally,
P.O. Shimurali, Dist. Nadia,
Pin - 741 248.

2. Shri Khokan Mondal,
S/o. Shri Sahabat Mondal,
Aged about 27 years,
Residing at Vill. Ruppur,
P.O. Narapati Para,
Dist. Nadia, Pin - 741 248.

3. Kobir Khan,
S/o. Alihoshen Khan,
Aged about 25 years,
Residing at Vill. Dubli,
P.O. Gangsara Majher Gram,
P.S. Gangnapur, Dist. Nadia,
Pin - 741 238

.. Applicants

- V E R S U S -

- i) Union of India,
Through the General Manager,
Eastern Railway,
Kolkata - 700 001.

- ii) The Chairman,
Railway Recruitment Cell,
56, C.R. Avenue,
Kolkata - 700 012.



iii) The Sr. Personnel Officer,
Recruitment,
Railway Recruitment Cell,
56, C.R. Avenue,
Kolkata - 700 012.

.. Respondents

For the Applicants : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. A.K. Guha, Counsel

O R D E R (Oral)

Per Mr. G. Rajasuria, Judicial Member:

Heard Ld. Counsel for both sides.

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

"a. Speaking order dated 30.7.2015 issued by respondent No. 2 cannot be tenable in the eye of law and therefore the same may be quashed.

b. 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.

c. An order do issue directing the respondents to prepare waiting list from amongst the eligible candidates.

d. An order do issue directing the respondents to prepare final panel after conducting medical test.

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

3. The grievance of the applicants as stated by Ld. Counsel for the applicant would run thus:-

The applicants took up the written test and passed it.



Thereafter they were subjected to PET and they came out successfully.

Then they were not subjected to medical examination and the applicants came to know that arbitrarily the respondent authorities short-listed the candidates before subjecting them to medical examination which is against RBE 121/05. The Ld. Counsel for the applicant also would cite the decision of the CAT dated 31.8.2015

in O.A. No. 330/01231/2015 and prayed for similar order to be passed.

4. Whereas Ld. Counsel for the respondents would submit that it is the discretion of the Railway authorities to short list the candidates and it cannot be questioned.

5. The point for consideration is as to whether the Railway authorities was justified in not subjecting the applicants for medical test by shortlisting the candidates even when they have passed the written test and also came out successfully in the PET.

6. We would like to excerpt from the earlier order passed in O.A. No. 1231 of 2015 dated 31.8.2015 as under:-

"5. At this juncture, we would like to refer to the RBE No. 121/2005 also which would envisage such a procedure only. From that it is clear that before empanelment, medical examination is contemplated and apparently there is no provision for the Railways to short list the candidates who have passed the PET test, after passing the written test. Hence, we would like to



direct the authorities concerned to consider the applicants for sending them for medical examination before empanelment as per law."

7. We are of the considered opinion that this case squarely comes under the dictum stood enunciated in the said cited previous order. There is no question of short listing the candidates who have passed the PET test, after passing the written test. Hence at this juncture, we would like to refer to the RBE No. 121/2005 which would envisage a procedure for shortlisting the candidates who passed the written test. From that it is clear that before empanelment, medical examination is contemplated and apparently there is no provision for the Railways to short list the candidates who have passed the PET test, after passing the written test. Hence, we would like to direct the authorities concerned to consider the applicants for sending them for medical examination before empanelment as per law.

7. Ordered accordingly.

(Jaya Das Gupta)
MEMBER(A)

(G. Rajasuria)
MEMBER(J)

SP