

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

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O.A./350/1447/2019

Heard on 01.11.2019

Date of Order: 5.11.19

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Pawan Kumar Pappu, Son of Kamalesh Roy, aged about 41 years, residing at Rly. Qr. No. L/57/2, P.O.-Bhojudih, PS- Chandankiyari, District- Bhojudih, Jharkhand, Pin Code- 828303.

.....Applicant

Vrs.

- 1) The Union of India, Service through the General Manager, South Eastern Railway, Garden Reach, Kolkata-700043.
- 2) The Divisional Railway Manager, South Eastern Railway, Adra Division, P.O. Adra, Dist-Purulia, West Bengal, 723121.
- 3) The Senior Divisional Personnel Officer, South Eastern Railway, Adra Division, P.O. Adra, Dist-Purulia, West Bengal, 723121.
- 4) The Senior Divisional Electrical Engineer (OP), South Eastern Railway, Adra Division, P.O. Adra, Dist-Purulia, West Bengal, 723121.
- 5) The Senior Divisional Mechanical Engineer, South Eastern Railway, Adra Division, P.O. Adra, Dist-Purulia, West Bengal, 723121.

.....Respondents

For the Applicant(s): Mr. A.Chakraborty, Counsel

For the Respondent(s): Mr. K.Sarkar, Counsel

ORDER

Bidisha Banerjee, Member (J):

The applicant in this O.A. has sought for the following reliefs:

"i) An order do issue directing the respondents to cancel/rescind the written examination process that has already been conducted in connection with the selection process for selection to the six post of Ch. Loco Inspector and thereby to conduct fresh written examination (S) in connection with the said process following the proper guidelines and in terms of the Office Letter No. SER/P-ADA/ELR/210/06/CLI/EL dated 27.10.2017 issued by the respondent No. 3 herein.

ii) Grant all consequential benefits;

iii) Costs of and incidental to this application;

iv) Pass such further or other order or orders;"

2. The grievance of the applicant in a nutshell is that South Eastern Circular dated 22.10.2019, as contained in Annexure-A/5 of the O.A., explicitly provides that selection of C.L.I. shall be made from Loco Pilots of both Electrical and Diesel Wings and there would be common selection ensuring equal questions from both the fractions whereas in the present case the selection was made pursuant to notification dated 27.10.2017 and the questions were set only from the Electrical side depriving the applicant, who belongs to the Diesel Wing, of a fair play in accordance with the circular dated 22.10.2019 and, as such, the selection ought to be scrapped entirely with direction upon the respondents to act in accordance with law.

3. Ld. Counsel for the applicant would strenuously urge that the result of the selection being not yet published, the representation preferred by the applicant and several others on 17.09.2019 and 14.10.2019, as contained in Annexure-A/4 of the O.A., ought to be disposed of and pending such disposal the result should not be published.

4. Per contra, Ld. Counsel for the respondents vehemently opposed the prayer and would submit that having subjected him to the selection procedure, the applicant was estopped by his conduct to challenge the selection process. Ld. Counsel would submit that the model question paper was supplied to the candidates before the examination and the model question paper contained questions only from Electrical Wing and, therefore, having full knowledge of the fact that the questions would be put from Electrical fraction, the applicant


participated at the selection process and, therefore, in view of the decision rendered in **Chandra Prakash Tiwari and Ors. Vs. Shakuntala Shukla and Ors.**, reported in **(2002) 6 SCC 127**, and in view of the decision rendered in **Om Prakash Shukla Vs. Akhilesh Kr. Shukla**, reported in **1986 Suppl. SCC 285**, by the three Judge Bench that when a candidate appears at the examination without protest and subsequently found to be not successful in examination, question of entertaining a petition challenging the said examination would not arise.

5. Ld. Counsels were heard and materials on record were perused. However, I find that no model question paper has been produced.

6. Inasmuch as the applicant has placed the circular dated 22.10.2019, which ensures that there shall be equal participation from Diesel and Electrical side and a fair play of putting equal number of questions from both the sides to the candidates and since no reason is forthcoming as to why this procedure was deviated from as also in view of the fact that the result of the selection has not yet been published and, therefore, the applicant cannot be termed "as yet unsuccessful candidate" and having noted that he agitated almost immediately after the examination was conducted, I feel it appropriate in the interest of justice to dispose of the O.A. at this admission stage with a direction upon the Sr. Divisional Electrical Engineer (OP), respondent No.4 herein, before whom the representation has been preferred or any other competent authority to look into the grievance projected by the applicant, consider it in accordance with law and pass appropriate, reasoned and speaking order deliberating on why the authorities choose to deviate from the established procedure of putting equal number of questions from both the fractions of Diesel and Electrical Wing in the

selection, in question. Let appropriate orders be passed, as aforesaid, before the result of the selection is published communicating the same to the applicant.

7. O.A. accordingly stands disposed of. No costs.


(Bidisha Banerjee)
Member (J)

RK

