

Biswa Ranjan Sahoo and Others

Vs

Sushanta Kumar Dinda and Others

Civil Appeals No. 9157 of 1996 With No. 9158 of 1996

(K. Ramaswamy, Faizanuddin, G. B. Pattanaik JJ)

08.05.1996

ORDER

1. Leave granted.

2. These appeals by special leave arise from the order of Central Administrative Tribunal, Cuttack Bench made on 10-10-1994 and 20-3-1996 in OA No. 137 of 1993 and Review Application No. 7 of 1995 respectively. The orders disclose the alarming state of affairs regarding lack of integrity and sincerity in the selection process, which is expected to assess merit and recommend for appointment of competent and meritorious persons according to the list prepared by the competent Selection Board. Reverse is the result shown in the process of selection. Pursuant to the Advertisement No. 6 of 1992 for filling up of six posts of Chagemen, 'B' Grade in Mechanical and Electrical Division, the fake selection process appears to have been gone by and some persons came to be appointed including the petitioners. When the selection was questioned, the Tribunal had called for the record and on the perusal of the record, noted as under :

"The perusal of the answer-book of the candidates with Roll No. 001078 (Umakanta Panigrahi) shows that though at Sl. No. 3, on the first page of the answer-book, his marks were shown as '00' it was changed to '20'. At Serial Number 11, there has been correction of the original marks to 25, the original marks appearing to be 20. This is how the total was brought to 95. On the second page of the answer-book though the marks given for Question No. 11-B were 10, later 5 has been added by someone to make it 15. On page 4, after the answer 1/8 written by the candidate, there could be seen some alteration to 0.8 by someone. The facing page of the answer-book of the candidate 001235 (Shri Biswa Ranjan Sahoo) shows overwriting at three places. At Sl. No. 2, original marks 16 appears to have been changed to 18 and total 91 appears to have been changed to 94. It is not possible to mark out how and why answer-book 001567 of candidate Rajani Kanta Guru was evaluated by a different examiner and marks noted in pencil as also his signature as apparently initials on this answer-book are totally different from the initials of the other examiner. There is practically no explanation coming forth as to how and why this examiner was different for this paper alone. We have perused the original tabulation which reveals that the marks obtained by the petitioner in the interview were altered and then total made of the marks obtained in the written test as well as the interview. Even with a naked eye, it appears that the marks obtained by the petitioner were originally 24 and the same reduced to 22 by subsequent correction and totally with this correction total was also brought down to 117 from 119."

3. A perusal thereof would indicate the enormity of malpractices in the selection process. The question, therefore, is : whether the principle of natural justice is required to be followed by issuing notice to the selected persons and hearing them ? It is true, as contended by Mr. Santosh Hegde, the learned Senior Counsel appearing for the petitioners, that in the case of selection of an individual if his selection is not found correct in accordance with law, necessarily, a notice is required to be issued and opportunity be given. In a case like mass malpractice as noted by the Tribunal, as extracted hereinbefore, the question emerges : whether the notice was required to be issued to the persons affected and whether they needed to be heard ? Nothing would become fruitful by issuance of notice. Fabrication would obviously either be not known or no one would come forward to bear the brunt. Under these circumstances, the Tribunal was right in not issuing notice to the persons who are said to have been selected and given selection and appointment. The procedures adopted are in flagrant breach of the rules offending Articles 14 and 16 of the Constitution.

4. It is needless to mention that the General Manager of the Railways should personally conduct the enquiry and find the persons who are responsible for this malpractice and take appropriate disciplinary action against those persons and submit the result of the report of the action to this Court expeditiously.

5. The appeals are accordingly dismissed. No costs.