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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 38/2018

SOM PAL SINGH

..... Petitioner

Through: Mr.P.S.Khare & Mr.H.P.Chakravorti,  
Advocates

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.J.B.Singh, St.Counsel for  
Railways with Ms.Madhulika  
Agarwal, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MS. JUSTICE PRATIBHA RANI**

**ORDER**

**04.01.2018**

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1. The present petition has been filed by the petitioner challenging the order dated 30.03.2017 passed by the Central Administrative Tribunal dismissing his OA No.1748/14 wherein his prayer was for quashing of the order dated 03.09.14 passed by the respondents/Northern Railways stating *inter alia* that the written examination conducted on 15.06.13 for the post of JE/TMC in PB ₹9300-34800 (Grade Pay ₹4200/-) for 13 vacancies (UR-10 & SC-03) against 25% talented Quota stood cancelled in terms of the Railway Board's order dated 8.10.13. Further, the petitioner seeks direction to the respondents to implement the declaration of result dated 10.7.13 whereby the result of the written examination was declared wherein the name of the petitioner figured in the said list at serial number nine.

2. Briefly stated the facts of the case are that the petitioner, who was posted as a Technician 'B', had applied to the respondents for the post of

Junior Engineer in pay band ₹9300-34800, Grade Pay ₹4200/- against 25% talented Quota. The cut off date for eligibility was taken as 06.12.2012. The written examination for the selection was conducted on 15.6.13 and the result was declared on 10.7.13. As per the result declared by the respondents, 26 candidates were shown as having passed the written examination. Thereafter, one of the recognized Unions submitted a letter dated 02.08.13 to the respondents stating *inter alia* that all the answer options in respect of one of the objective type questions in the written examination were wrong. As a result, the matter was referred to the Railway Board for their decision. The Railway Board vide order dated 08.10.13 had restructured the cadre and in para 4.2 directed that such selections which had not been finalized by 01.11.13, should be cancelled/abandoned and in para 4.3, directed that all normal vacancies arising from 02.11.13, shall be filled up by normal selection procedure. In compliance of the order dated 08.10.13 issued by the Railway Board, the respondents cancelled the said selection process.

3. Aggrieved by the said decision, the petitioner filed the captioned OA which has been dismissed by the Tribunal with an observation that he had not challenged the Railway Board's order dated 08.10.13 in the OA and had not even impleaded the Railway Board as a co-respondent nor had he impleaded any person against whom he had alleged malafides. It was also observed by the Tribunal that merely because the petitioner had participated in the selection process, would not grant him an indefeasible right for appointment. As a result the OA was dismissed.

4. Mr.Khare, learned counsel for the petitioner states that the Tribunal erred in observing that the petitioner had not challenged the order dated

08.10.13 inasmuch as he was not required to do so since the result of the written examination was declared much prior thereto i.e. on 10.07.13. He submits that some malafides were involved in the cancellation order inasmuch the letter dated 02.08.13 addressed by one of the recognized Unions to the respondents, was motivated since some of its members, who had also participated in the examination, had failed to clear the written examination and thereafter an attempt was made to have the entire selection process quashed. Lastly, learned counsel for the petitioner states that since the written examination had taken place, the respondents were not required to take any further step except for declaring the results, which had already been declared and therefore, it could not be stated that the entire process of selection had not concluded on 10.07.13. In the above circumstances, the Railway Board's decision dated 8.10.13 could not be extended to the case in hand.

5. Mr.Singh, learned counsel for the respondents, who appears on advance notice, opposes the present petition and asserts that there is no error in the impugned order requiring any interference. He states that merely because the result of the written test was declared on 10.07.13, would not be of any assistance to the petitioner for the reason that after the declaration of the result of the written examination, the respondents were also required to take further steps to scrutinize the record and verify the Court case/vigilance case, if any, pending against the selectees and only after that could the entire procedure of selection have been finalized. But that stage did not reach as the Railway Board passed the order dated 8.10.13, cancelling the selection process.

6. We have heard the learned counsels for the parties and perused the documents placed on record and are inclined to concur with the findings

returned by the learned Tribunal. It is settled law that participation of a candidate in a selection process does not vest an indefeasible right in him for appointment. Admittedly, the procedure of selecting the candidates, after the written test was conducted, had yet to be completed by the respondents by undertaking a verification in respect of the selectees. Before the said process could be completed, the respondents had received a complaint about the incorrect options given in respect of one of the objective type question. As a result, the Railway Board issued an order dated 08.10.13 declaring that the selection that had not been finalized by 01.11.13, ought to be cancelled/abandoned.

7. Admittedly the petitioner had neither challenged the order dated 08.10.13 passed by the Railway Board regarding restructuring of the Group 'C' cadre, which forms the basis of cancellation of the examination in question, nor has he impleaded the Railway Board as a co-respondent. Further, it is not just the petitioner, whose result has been cancelled, the result of the entire examination in respect of the subject post has been cancelled by the order dated 08.10.13. Therefore, we are not inclined to accept the submission made by learned counsel for the petitioner that the respondents have discriminated against him or have selectively targeted him or that there are any malafides attributable to the respondents in quashing the written examination and cancelling the selection process.

8. Accordingly, the present petition is dismissed *in limine*, as meritless, while upholding the impugned order.

**HIMA KOHLI, J.**

**PRATIBHA RANI, J.**

**JANUARY 04, 2018/ 'pg'**