

**Shri Kausik Kumar Pal
Vs.
Union of India & Ors.**

**Mr. Asim Banerjee,
Mr. Saibal Acharyya,
Mr. Ambu Bindu Chakraborty.
... for the petitioner.
Ms. Aparna Banerjee.
... for the respondents.**

The present writ petition has been filed challenging an order dated 1st July, 2016 passed by the Central Administrative Tribunal, Calcutta Bench, in rejecting an application being OA 350/01915 of 2016.

The petitioner approached the Tribunal seeking relief pertaining to promotion to the post of Assistant Neutral Control Officer (Group 'B') on the basis of second position in the panel of the eligible candidates prepared after written test and medical examination; as well as the consequential benefits flowing therefrom.

It is no doubt true that the petitioner, who was initially appointed as apprentice way back on 30th April, 1979 for the railway services, was blessed with the order of regularization and propelled his potential to reach the stage of Senior Section Engineer (NC)/Inspector, which is a Group 'C' post. Subsequently the promotional post of Assistant Neutral Control Officer (Group 'B') fell vacant and the willingness was sought from the eligible candidates at the feeder post for the purpose of assessment or evaluation of their suitability to such post.

Nine candidates offered their candidature and were allowed to participate in the written examination and three out of the nine were found

successful therein; it includes the petitioner. Subsequently all the three candidates were found medically fit and called for interview.

The genesis of the litigation can be traced from the panel prepared after the interview was conducted. When all the aforesaid three candidates succeeded in the written examination and more particularly the petitioner was not found suitable to such promotional post, it led the petitioner to contend before the Tribunal that the process by which the said promotional post was sought to be filled up was contrary to the Manual applicable to the Railways and even the cap to be adhered to was not followed.

In other words, several pleas have been taken impinging upon the process by which the promotional post was sought to be filled up including that though the petitioner has done fairly well in the interview, but he was allotted less marks than the other candidates.

It is no longer res-integra that if the process for filling up of the promotional post is undertaken through multiple tiers of examination or assessment, the collective assessment shall be the sole criterion for ascertaining the suitability to such promotional post. Admittedly the process was divided into three categories, namely the written test, medical test and interview.

A candidate, who secured highest marks in the written test, cannot possibly perceive that he is the best-suited candidate for such promotional post and, therefore, the other tier of assessment is an idle formality.

As indicated above, the collective assessment is the primary factor and even if a candidate, who secured higher marks in the written test, is not

entitled to get the best marks in the interview if he does not did fairly well. The Tribunal, in fact, took note of the same and discarded the contention of the petitioner in this regard, which cannot be said to be infirm warranting interference in the instant writ petition. Furthermore, the petitioner consciously participated in the entire process and even when six persons were eliminated from the zone of consideration so far as the interview is concerned, not a single protest or whisper came that the process has not been undertaken strictly in terms of the Manual. The moment the petitioner was not found suitable at the interview stage and the total marks which he obtained does not qualify him to such post, the challenge to the entire process has been made, which cannot be permitted. The person, who participated in the process, cannot be wriggled out therefrom and take a rebound that the entire process was vitiated.

We thus do not find any infirmity or illegality in the order of the Tribunal.

The writ petition fails.

There will be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

