

PETITIONER:
BISWA RANJAN SAHOO & ORS.

Vs.

RESPONDENT:
SUSHANTA KUMAR DINDA & ORS.

DATE OF JUDGMENT: 08/05/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
FAIZAN UDDIN (J)
G.B. PATTANAIAK (J)

CITATION:
JT 1996 (6) 515 1996 SCALE (5)297

ACT:

HEADNOTE:

JUDGMENT:
THE 8TH DAY OF MAY, 1996

Present:
Hon'ble Mr. Justice K. Ramaswamy
Hon'ble Mr. Justice Faizan Uddin
Hon'ble Mr. Justice G.B. Pattanaik
Santosh Hegde, Sr. Adv. K.N. Tripathy and Janaranjan Das,
Adv. with him for the appellants.

O R D E R

The following Order of the Court was delivered:
Biswa Ranjan Sahoo & Ors.

V.
Sushanta Kumar Dinda & Ors.

WITH
CIVIL APPEAL NO. 9158 OF 1996
(Arising out of SLP (C) No. 13684 Of 1996)
[CC - 2066/96]
O R D E R

Leave granted.

These appeals by special leave arise from the order of Central Administrative Tribunal Cuttack Bench made on October 10, 1994 and March 20, 1996 in O.A.No.137/93 and Review Application No.7/95 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.6/92 for filling up of six posts of chargemen, 'B' Grade in Mechanical 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, in the first page of the answer book, his marks were shown as '00' it was change 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. In second page of the answer book though the mark given for Question No.11 B were 10, later 5 has been added by someone to make it 15. In page No.4, after the answer 1/8 written by the candidate, there could be seen some alternation to 0.8 by someone. The facing page or the Answer Book of the of candidate 001235 (Sri Biswa Ranjan Sahoo) show over writing at three places At Sl. No.2, original mark 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 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 from 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 for 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. "

A perusal thereof would indicate the enormity of mal practices 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 Hedge, learned senior counsel appearing for the petitioners, that in the case of selection of an individual 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 mal-practice 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 procedure adopted are in flagrant breach of the rules offending Articles 14 and 16 of the Constitution.

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

The appeals are accordingly dismissed. No costs.

JUDIS