

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00297/2019

With

Misc. Application No. 040/00153/2019

Date of Order: This, the 24th day of January 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Padma Kalita (Aged about 43 years)
S/o Late Jana Ram Kalita
Residence – Railway Quarter
No. 44/B, Nambari
P.O. – Maligaon, Guwahati – 11.

...Applicant

By Advocates: Sri K. Bhuiyan & Sri N. Islam & A Kalita

-Versus-

1. The Union of India
Represented by the General Manager (P)
N.F. Railway, Maligaon
Guwahati, Assam, Pin – 781011.
2. The Principal Chief Personal Officer
N.F. Railway, Maligaon
Guwahati, Assam, Pin – 781011.
3. The Assistant Personal Officer
Bill & Grievance, N.F. Railway
Maligaon, Guwahati, Assam, Pin – 781011.
4. The Chief Public Relations Officer
N.F. Railway, Maligaon
Guwahati, Assam, Pin – 781011.

...Respondents

By Advocate: Ms. U. Das, Railway Standing Counsel

O R D E R (ORAL)

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This O.A. No. 040/00297/2019 has been filed by the applicant seeking the following reliefs:



- "8(i) To set aside and quash the impugned Notification dated 25.02.2019 issued by Respondent No. 3.
- (ii) To direct the/commend the respondents to modify the Notification dated 25.02.2019 by deleting qualification Matriculate.
- (iii) To direct/commend the respondents not to conduct written interview on 19.09.2019 in pursuance to the order dated 21.08.2019.
- (iv) To pay cost of this application and incidentals and/or pass such other order/orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice."

2. While filing the OA, the learned counsel for the applicant Sri K. Bhuyan submitted that the respondent authorities issued Notification No. E/254/13/1/EQ(G) dated 25.02.2019 by prescribing new qualification (Matriculate) for similar grade i.e. Group 'D' to Group 'C' (Junior Clerk) post thereby the applicant is deprived to get his legitimate entitlement for selection from Group 'D' to Group 'C' post. Accordingly, this Tribunal

after considering his submissions, vide order dated 12.09.2019 stayed the operation of the impugned order dated 21.08.2019, which was in continuation of the Notification dated 25.02.2019, giving the date of examination and list of candidates.



3. The main grievance of the applicant here is that the respondent authorities vide their Notification dated 25.02.2019 for filling up the post from Group 'C' to Group 'D' has introduced a new element, qualification of 'Matriculation'. Because of this new introduction, the applicant has been deprived of his chance of getting promoted to the post of Group 'C' (Junior Clerk) and he could not appear in the examination for promotion, being non-matriculation.

4. The respondent authorities filed their written statement on 14.11.2019 and also M.A. No. 040/00153/2019 for vacation of the stay order dated 12.09.2019. In the M.A. as well as in the written statement, they have brought out that as per para 174 of Indian Railway Establishment Manual, Volume-I (1989

Edition), recruitment to the post of Office Clerks in the pay scale Rs. 3050-4590 is as under:-

- (i) 50% by direct recruitment through Railway Recruitment Board;
- (ii) 33-1/3% by promotion by a process of selection from eligible Group 'D' categories of staff as specified by the Zonal Railways as per procedure prescribed in para 189; and
- (iii) 16-2/3% by promotion entirely on merit from Matriculate Group 'D' employees from eligible categories as specified by the Zonal Railways for (ii) above, with a minimum of 2 years regular service in the concerned seniority unit on the basis of competitive examination consisting of written test and record of Service of 85 and 15 marks respectively.



5. They have also brought out that the previous examination in which the applicant had appeared for selection was for filling up the post of Group 'C' (Junior Clerk) from Group 'D' (Non Matriculate) under 33-1/3% DP Quota for 'G' Branch only. The present Notification dated 21.08.2019 is for Matriculate Group 'D' employees against 16 2/3% of LDCE quota of all the department of HQ Office. Therefore, they are of separate categories channel of recruitment in which the applicant would not be eligible for appearing in the examination he being 'Non-Matriculate'. According to the respondents,

the applicant has misled the Tribunal by placing wrong facts in the above context.



6. The applicant submitted his rejoinder on 17.12.2019 wherein he had challenged that the impugned Notification dated 25.02.2019 is arbitrary and illegal wherein the vacancy position was wrongly calculated by showing 21 nos. of posts against 16 2/3% LDCE quota (Matriculate) (Level-1 to Level-2) whereas in Notification dated 04.12.2018 regarding promotion from Group 'D' to Group 'C' (Level-1 to Level-2) the vacancy position was shown only 02 (Two) post against 33 1/3% of DP vacancy.

7. In his objection against M.A. of the respondents for vacating the stay order of this Tribunal dated 12.09.2019, the applicant repeated the same point.

8. We have considered the above facts as brought out by the respondent authorities. It is clear from the submissions of the respondent authorities as well as copy of the Indian Railway Establishment Manual, Volume-I (1989 Edition) placed before us that there are indeed three channels of recruitment to the post of Group 'C'

(Junior Clerk) in the department. Therefore, previous examination in which the applicant had appeared as stated by the respondent authorities was indeed under the percentage of 33-1/3 of DP quota but only for 'G' Branch. Though percentage is high, the actual number of vacancies could be less since it was meant only for 'G' Branch under DP quota. As far the number of vacancies of 21 under 16-2/3% of Matriculate Group 'D', it is meant for all the departments of HQ office. Accordingly, though the percentage is less i.e. 16-2/3%, the number of vacancies could be higher as far all the departments of HQ office.



9. Keeping in view of the above, we consider that the claim of the applicant is found to be factually incorrect as the two channels of recruitment are different. Since he is not eligible in this present Notification dated 25.02.2019 under 16 2/3% and had not appeared, we found that the O.A. is devoid of merit and liable to be dismissed. Accordingly, O.A. is dismissed.

10. Consequently, M.A. No. 040/00153/2019 is hereby allowed.

11. Interim order dated 12.09.2019 passed by this Tribunal is also hereby vacated.

12. There shall be no order as to costs.



PB

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)