

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/756/2014

HYDERABAD, this the 22nd day of January, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



P. Manikeswara Rao,
S/o. P. Narsinga Rao,
Aged 52 years, Sr. Section Engineer (Works)/WAT,
R/o. Q.No.582/1, Old Jail Area,
Dondaparthi, Visakhapatnam 530 004.

... Applicant

(By advocate: Mr. V. Ravindranath Reddy)

Vs

1. Government of India rep. by its
General Manager, East Coast Railway,
Rail Sadan, 1st floor, South Block,
Bhubaneswar, Odisha 751 017.
2. Principal Chief Engineer,
East Coast Railway, Rail Sadan,
1st floor, South Block,
Bhubaneswar, Odisha 751 017.
3. Chief Personnel Officer,
East Coast Railway, Rail Sadan,
Bhubaneswar, Odisha 751 017.
4. Divisional Railway Manager,
Waltair Division,
East Coast Railway, Dondaparthi,
Visakhapatnam, A.P. 530 016.
5. Senior Divisional Engineer (Co-ord),
East Coast Railway, Waltair Division,
Dondaparthi, Visakhapatnam, A.P. 530 016.
6. Sri Lingaraj Padhi,
SSE/W/C/BBS, East Coast Railway,
Office of the Dy. Chief Engineer (Works),
Bhubaneswar, Odisha 751 017.
7. Sri Prasanna Kumar Sahu,
SSE/W/WAT, East Coast Railway,
Office of the Sr. Section Engineer (Works)/ Lines,
Visakhapatnam 530 016.
8. Sri Dayanidhi Pradhan,
CVI (Engg)/ Dy. CVO/ BBS,
East Coast Railway,
Rail Sadan, 1st floor, South Block,
Bhubaneswar, Odisha 751 017.
9. Sri Sumit Kumar Bandyopadhyay,
SSE/W/C/WAT, East Coast Railway,
Land Cell, Dondaparthi, DRM's Building,
Visakhapatnam.

... Respondents

(By advocate: Mr. S.M. Patnaik, SC for Railways)

ORDER (ORAL)**Hon'ble Mr. Ashish Kalia, Judl. Member**

None present for the applicant. This is a matter of 2014. As such, matter is taken up for adjudication.



2. The applicant has filed the present O.A. seeking the following relief:

“To declare the action of the respondents in not including the name of the applicant in the provisional panel for the post of Group-B as AEN under 70% quota issued by 3rd respondent vide orders No.ECoR/Pers/Gaz/Engg/AEN-70%/Select Panel dated 30.05.2014 as illegal and arbitrary and set aside the same and direct the respondents to prepare a fresh panel including the name of the applicant who is a senior to several unofficial respondents and promote him to the post of Group B post of AEN and give all consequential benefits to the applicant and pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. The applicant joined the South Central Railways in the year 1984 as IOW Gr.III and he is presently working as Senior Section Engineer. As per the applicant, he is working with utmost dedication and sincerity with the respondents. There is a notification issued by the respondents against 70% vacancy quota for promotion to the post of AEN for the years 2009-11 & 2011-13 in the Civil Engineering Department of East Coast Railways/ BBS. The applicant applied and appeared in the said examination, but has not qualified for the same. It is submitted that as per the Railway Establishment Rules, the selection procedure for Group-B posts should be by conducting written test in professional ability which is consisting of 150 marks and the candidate has to get 90 marks out of 150 to qualify. Further Record of Service and Viva-Voce will be consisting of 50 marks (25 marks for Viva-Voce and 25 marks for record of service) and the candidate has to get 30 marks (out of which minimum 15 marks have to be secured in the record of service). Further all those candidates who secure 80%

marks and above in overall tests (professional ability, record of service and viva-voce) shall be classed as outstanding and placed on top of the selected candidates in the panel and balance of vacancies shall be filled by following seniority among the candidates who get 60% and above marks up to 79%. Feeling aggrieved by this, the applicant approached this Tribunal for redressal of his grievance.



4. The respondents filed reply through their Standing Counsel Sri S.M. Patnaik, who has argued the matter at length. He has drawn our attention to para 3(f) at page 4 of the reply statement, which reads as under:

3(f) In the said selection, the candidate though qualified in the written test by scoring more than 90 marks, but could not secure 30 (including minimum 15 marks in record of service) in the viva-voce. Mere seniority and qualifying in the written test do not make a candidate eligible for promotion to the Group-B against 70% quota vacancy. Candidates, who qualify in the written test, should go for medical fitness test of prescribed standard and who qualify the medical fitness test of prescribed standard are allowed to appear in the viva-voce test. The viva-voce test consists of Record of service (25 marks) and viva-voce (25 marks). In the Viva-Voce test, the candidate's leadership quality, ability to tackle practical problem, the ability to motivate his subordinates etc., are adjudged. Since the applicant's performance was poor in the Viva-voce test, he did not secure the minimum qualifying marks i.e. 30 out of 50 (including minimum 15 marks in record of service) in the Viva-voce test. Hence, he was not found suitable for empanelment. Being aggrieved, he has filed the present application before this Tribunal.

5. The applicant has not scored the requisite qualifying marks as depicted hereinabove. Since the applicant has not qualified in the said examination, he cannot be given promotion to the post of AEN. In view of this, there is hardly any merit in the present O.A. The same is liable to be dismissed. We do so. No order as to costs.

(B.V. SUDHAKAR)
ADMN.MEMBER
 /pv/

(ASHISH KALIA)
JUDL. MEMBER