

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00626/2016

Date of order: 27.01.2020

C O R A M

HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Chandan Kumar, Son of Sri Ranjan Kumar, Resident of Village- Shekhopur Hid, P.O.- Nimi, P.S.- Shekhopur Sarai, District- Sheikhpura- 811103 (Bihar).

.... Applicants.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi – 110001.
2. The General Manager, East Central Railway, Hajipur, P.O.- Hajipur, District- Vaishali (Bihar).
3. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Hajipur, District- Vaishali (Bihar).
4. The Chairman, Railway Recruitment Cell, Palson Complex, East Central Railway, Dighaghat, Patna- 800011 (Bihar).
5. The Assistant Personnel Officer, Railway Recruitment Cell, Palson Complex, East Central Railway, Dighaghat, Patna- 800011 (Bihar).

.... Respondents.

By Advocate: - Mr. Arun Kumar

ORDER
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for setting aside the reason for denying appointment to the applicant shown in the letter dated 05.08.2016 (Annexure A/7). He has also prayed for including his name in the final panel of selectees dated 14.10.2015 (Annexure A/6) and issue appointment letters to the post of Group-D (Store) in favour of the applicant under UR category with





consequential benefits. The applicant has alleged that in pursuance of Employment Notice No. RRC/ECR/GP-1800/1/2013 issued by the respondent no. 4 for appointment to the post of Group-D (Store), the applicant had submitted his application. He appeared in the written examination held on 23.11.2014 and on being successful in this examination he was called for second stage physical efficiency test on 11.03.2015 where he was declared successful. The applicant was called for document verification on 10.07.2015 and for medical examination on 11.07.2015 where he appeared and was found medically fit for appointment. However, when the final panel was issued on 14.10.2015 the name of the applicant did not find place. Following detailed representations under RTI he has received the letter dated 05.08.2016 (the impugned order) where he has been informed that there were total 9 vacancies in Group D under UR category and the marks obtained by the applicant and one other candidate at sl. No. 9, are same (83.2). Since the other candidate is older in age than the applicant, he has been offered appointment and the applicant could not be selected since his date of birth was later than the other candidate with whom he was tied at the merit position. The applicant has stated that the Employment Notice, following which he had applied for this job, clearly showed 10 vacancies against the post Group-D (Store) and hence selecting only 9 persons against the advertised vacancy of 10 is wrong and hence, this OA.

2. A written statement has been filed denying the claim made by the applicant. It is stated that total 4655 vacancies were advertised through the aforementioned Employment Notice (Annexure R/1). Three

percent of these vacancies, i.e. 141 were reserved for Physically Handicapped (PH) candidates. In the notified vacancies category wise vacancies were not reserved for PH candidates because posts are allotted to such candidates only after receiving their medical fitness for the job. The fact of there being 141 vacancies reserved for PH candidates was clearly mentioned in the Employment Notice itself and it was also stated that the advertised vacancies were provisional. While distributing 141 vacancies of PH candidates, only 3 vacancies were reserved out of the 21 (UR-10, OBC-6, SC-3 & ST-2), vacancies of the post of Group-D (Store). Out of these 3 reserved for PH candidates amongst this post only 1 out of 10 was kept for PH candidate. Thus, there were only 9 vacant posts available for UR candidates and the applicant failed to get selected since he was younger in age than the candidate with whom he was tied at the 9th place.



3. A rejoinder is filed in which while denying the statements made in the written statement the applicant has reiterated his earlier claim.

4. We have gone through the pleadings and heard the learned counsels for the parties. The learned counsel for the applicant vehemently argued that the respondents cannot advertise a number of vacancies and then keep them unfilled. It was argued that there are a number of judicial pronouncements to this effect (though no specific citation was given at the time of the argument, none is given in the OA also). Learned counsel for the respondents argued that the advertisement clearly indicated that there were total 4655 vacancies and

also that there was an EXM quota of 931 and PH quota of 141. This PH quota was not specifically assigned in the advertisement against various categories of posts since it is not possible to do so before conducting medical examination. The assignment of only 1 candidate towards this quota, against the 10 UR posts of Group-D (Store), cannot be considered unreasonable.



5. After going through the pleadings and hearing the arguments of the learned counsels for the parties, it is clear that the applicant had not been able to get selected to the Group-D (Store) post because one out of the ten advertised vacancies were assigned to a candidate under PH quota. The advertisement itself makes it clear that there will be a PH quota and also that the vacancies notified are provisional. The reason given by the respondents, for assigning one post under PH quota against the 10 UR posts of Group-D (Store) category, is also reasonable and is apparently not because of any bias against the applicant. Hence, we do not see any reason to accept the request of the applicant to quash the decision of the applicant which was informed to him through their letter dated 05.08.2016. The OA is, therefore, dismissed. No costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member