

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.312/2020

New Delhi, this the 19th day of February, 2020

Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)
Hon'ble Mr. Pradeep Kumar, Member (Administrative)

1. Kaptan Singh, Aged-41 Years, 'D'
S/o Sh. Ram Phal,
Working as Pointsman at
Northern Railway Station, Jind
R/o Qtr.No.F203/2, Railway Colony,
Jind (Haryana)
2. Naresh Kumar, Aged-30 Years 'D'
S/o Sh. Bir Jain,
Working as Gateman at
Northern Railway Station THBN.
R/o Vill & PO Balwa, Distt. Shamli (UP)
3. Amrit Lal Meena, Aged-37 Years, 'D'
S/o Shri Ram Meena
Working as Gateman at Northern Railway Station,
New Delhi. R/o Vill. Manoli, Tehsil Malarna Doongar,
Distt. Sawai Madhopur, Rajasthan.
4. Ashwani Verma, Aged-36 Years, 'D'
S/o sh. Ram Avtar,
Working as TNC at
Northern Railway Station, Tugalkabad
R/o 18/B, Railway Colony, Tugalkabad.
5. Rajesh Kumar, Aged-42 Years 'D'
S/o Sh. Suraj Bhan,
Working as Gateman at
Northern Railway Station, Samalka
R/o 18/B, Railway Colony, Samalka
6. Niraj Kumar Gupta, Aged -40 Years, 'D'
S/o Sh. Santosh Kumar Gupta
Working as Goods Guards at
Northern Railway Station, Gaziabad
R/o FF-1, Plot No.694, Sector-4
Vaishali Ghaziabad (U.P.)

7. Ravi Shanker Ojha, Aged-33Years 'D'
S/o Sh. Girish Ojha
Working as Goods Guard at
Northern Railway Station, Ghaziabad
R/o RZ-H-8, B-Block, Arjun Park
Najafgarh, New Delhi-110043
8. Nafis Ali, Aged-30 Years, 'D'
S/o Sh. Sukko Ali,
Working as Pointsman at
Northern Railway Station, Ghaziabad
R/o Vill. Khatoli, Post Sarina
Distt. Saharanpur, Pin-247554
9. Praveen Kumar, Aged-34 Years 'D'
S/o Shree Ram Kantiwaz
Working as Pointsman at
Northern Railway Station, Hazrat Nizammudin
R/o Gali No. 03, House No. 85
Nangli Rajapur East, Nizammudin
10. Balbant Kumar, Aged 37 Years 'D'
S/o sh. M.P. Choudhary,
Working as Goods Guard at
Northern Railway Station, Tugalkabad
R/o D-1026, DDA Flats Bindapur,
New Delhi.

-Applicants

(By Advocate: Mr.Yogesh Sharma)

Versus

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi
2. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi.
3. The Divisional Personnel Officer (Admn.)
Northern Railway, Delhi Division
State Entry Road, New Delhi. - Respondents

(By Advocate: Mr.S.M Arif with Ms. Shabnam Praveen)

O R D E R (O R A L)

By Hon'ble Mr. Pradeep Kumar, Member(A):-

1.0 In the instant case, one selection for filling up 102 posts of Station Master against the 15 % LDCE quota was ordered vide notification dated 17.10.2018. The eligibility requirement as specified in this notice reads as under: -

“Application are therefore invited from the eligible staff as mentioned above on the prescribed performa enclosed here with as Annexure-I. The staff of Operating and Commercial in Level 1 to Level 05 with an upper age limit of 45 years (50 years in case of SC/ST) and qualification of Graduation subject to the conditions that staff in Level 1 have rendered a minimum of 05 years regular Railway Service. Those who desire to be considered for the post of SM should submit their application in their own legible hand writing on this office latest by 16.11.2018 addressed to APO/T& C, DRM Office/ New Delhi by Single Window Cell “Application for the post of Station Master against 15 % quota”

2.0 The written test was conducted on 02.02.2019 whereafter the result was declared on 11.07.2009 and total of 42 candidates were declared successful. Thereafter, aptitude test was held on 07.08.2019 and 08.08.2019. However, final result was not declared and subsequently the entire selection was cancelled vide order dated 27.12.2019 and a new selection for 116 posts (including 102 posts as above) was ordered vide notification dated 17.01.2020.

The applicants form part of these 42 successful candidates. They felt aggrieved and file the instant OA. They seek relief to quash the notification dated 27.12.2019 and 17.01.2020 and to issue final selection panel for the tests already held on 07.08.2019 and 08.08.2019. Some other reliefs are also sought.

3.0 The notices were issued and respondents have submitted their short counter reply on 08.02.2020 in respect of reasons for cancellation of the said selection. In respect of reasons for cancellations, following has been specifically averred:

“that in reply to the contents of the Para 4.8 of the O.A., it is submitted that the exam has been cancelled on account of some administrative reasons. And fresh notification has also been issued.”

4.0. It is pleaded that, after cancellation, a fresh notification has since been issued on 17.01.2020.

5.0 It was further pleaded that number of vacancy has increased to 116, under the said 15% quota, and this includes 102 vacancies notified earlier.

6.0 The respondents also produced the administrative file, wherein the reasons for this cancellation have been recorded and an approval was granted by the competent authority.

7.0 The respondents pleaded that now since the entire earlier selection has been cancelled and a new selection has already been ordered and the applicants in this OA, have been allowed to submit their applications for the new selection notified on 17.01.2020, the present OA is required to be dismissed and the applicants are to take part in the new selection.

8.0 The applicants pleaded that a cryptic order "some administrative reasons" has been given in the short reply (para 3 supra) and as such, the applicants are not in a position to submit any rejoinder and they only argued before the Court.

The respondents submitted that the earlier selection has been cancelled because of certain discrepancies in regard to eligibility which was wrongly indicated and the new selection has been ordered, wherein eligibility condition now specified reads as under:-

" As per revised channel of promotion circulated vide GM(P) letter No. RBE 22/2018 16.02.2018 (PS No. 14600/2) the following service and regular staff of operating Department /Commercial Department in Level 01 to Level 05 with an upper age limit of 45 year (50 years in case of SC/ST) and qualification of Graduation subject to the condition that staff in Level 01 have rendered minimum of 05 years regular in Railway Service and 02 years residential period in Level-02 to Level-5 in Railway service."

9.0 The matter has been heard at length, argued by Mr.Yogesh Sharma, learned counsel for the applicants and Mr. S.M.Arif, learned counsel for the respondents.

10.0 It is seen that the eligibility requirement specified in earlier selection vis-a-vis the new selection is at variance as under:

Earlier Selection Dt.17.10.2018	New Selection Dt 17.01.2020
Those working in Level-01 to Level 05, with upper age limit of 45 years (50 year in case of SC/ST), having qualification of graduation subject to the condition that those in Level-01 should have rendered minimum of 05 years regular service.	No change.
No such minimum service was specified for those working in the Level-02 to Level - 05.	For those working in level 2 to level 5, should have rendered minimum of 02 years of regular service in level 2 to level 5.

10.1 A close reading of above indicates that zone of consideration for earlier selection was much wider with no restrictions of minimum service for those in level 2 to level 5.

11. As per the written result declared on 11.07.2019, it was seen from the Administrative file produced by respondents that there were four such candidates who were in Level 02 to Level 05 and who had not rendered minimum 2 years of service, which was the essential qualification of eligibility but which was erroneously not specified in the notification of 17.10.2018 (para 1.0 supra) and they were declared successful based on written test held on 2.2.2019.

12.0 In view of the foregoing, it is seen that the only discrepancy in the earlier selection was that some candidates, were ineligible but still participated in the test. There was no candidate in Level 02 to Level 05, who was eligible but was not allowed to participate in the said selection. Apart from this, Administrative file does not disclose any other discrepancy in the selection held on 02.02.2019.

13. In this context, the applicants drew attention to an earlier OA No.1852/2013 decided by the Principal Bench of this Tribunal on 06.12.2014 wherein certain controversy had arisen

and the entire selection was cancelled. This cancellation was set aside: The relevant part of the judgment is reproduced below:-

“5. We have heard both sides and have perused the material on record. In our opinion, the respondents have cancelled the written test conducted by them under the 33.33 % quota on flimsy grounds. Nothing prevented them from re-calculating the vacancies arising in this quota even in some discrepancies had been noticed in earlier calculations. They could have proceeded with the selection and filled up the vacancies as per revised calculation. There was no justifiable reason for cancelling the selection itself. The selection should have been cancelled only as a last resort if some gross irregularities had come to notice vitiating the entire selection process. In the case of Inderpreet Singh Kahlon & Ors. Vs. State of Punjab & Ors., AIR 2006 SC 2571 Hon’ble Supreme Court has laid down certain para meters for deciding when the selection process deserves to be cancelled. This could have been done only when the irregularities notices were of such large scale that it would not have been possible to separate the tainted candidates from the innocent ones. In the instant case, no irregularities came to notice. The exam was cancelled only when there was some discrepancy in calculation which could not have been easily rectified.”

14.0 Keeping in view the ratio of the above judgment, and the actual discrepancy in the written examination held on 02.02.2019, the Tribunal is of the considered view that the candidature of the four employees, who were not eligible to appear in the earlier examination since they did not have minimum two years service requirement, only need to be cancelled and there is no justification to cancel the entire selection.

15. For the foregoing reasons, the respondents are directed that earlier selection notified vide order 17.10.2018, be finalized by cancelling the candidature of the four ineligible candidates. The final select panel, based on written exam and

the aptitude test of the remaining candidates, who participated in test, be declared duly adhering to the norms of passing the said examination.

The cancellation order issued on 27.12.2019, which was one of the impugned order in the instant OA, stands set aside.

16. Further in respect of the LDCE notification dated 17.01.2020, a total of 116 number of vacancies were shown. Respondents may proceed ahead with this selection duly revising the vacancies based on result as per para 15 above. The result of successful candidates as per 15 above shall be declared prior to holding written exam for the notification of 17.01.2020.

17. The administrative file produced by the respondents, was returned to the counsel after perusal. No costs.

(Pradeep Kumar)
Member(A)

(Justice Vijay Lakshmi)
Member (J)

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