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Central Administrative Tribunal, Principal Bench

Original Application No.2412 of 1999

New Delhi, this the 16<sup>th</sup> day of May, 2000

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)  
Hon'ble Mr.V.K.Majotra, Member (A)

Shri Sonveer Singh Yadav, S/o Shri Kitab  
Singh Yadav, Gangman (SEPW), Central  
Railway, Palwal, Distt.Faridabad (Haryana) - Applicant

(By Advocate Shri V.N.Jha)

Versus

1. General Manager, Mumbai CST, Central Railway, Mumbai.
2. Divisional Railway Manager, Jhansi(U.P.)-Respondents

(By Advocate Shri V.S.R.Krishna)

O R D E R

By V.K.Majotra, Member(Admnv) -

The applicant has assailed Annexure-A-1 dated 22.7.1999 whereby 11 candidates have been selected on the provisional panel to the post of Permanent Way Mistri (for short 'PWM') (Engineering) grade Rs.4500-7000 through a Limited Departmental Competitive Examination (LDCE) for promotion of Engineering Gangmen/ Keymen to the post of PWM(Engineering). The applicant has not been selected for the said post. He alleged that his non-selection to the above said post is in violation of the selection procedure and rules.

2. The applicant belongs to OBC category. He joined on 5.9.1985 as Monthly Rated Casual Labour (MRCL). His services were regularised on 4.8.1992 as permanent Gangman. Respondent no.2 vide letter dated 23.5.1998 (Annexure-A-2) invited applications for promotion by selection to the post of PWM in the pay scale of Rs.1400-2300 through LDCE under 25% quota. It was mentioned in the said letter that 11 vacancies were

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to be filled from general category, 2 from SC and 1 from ST. Out of 88 candidates, who took the written examination, 14 were selected/ qualified for viva voce test, in which applicant's serial no. was 11. The viva voce test was held on 15.6.1999. One Shri Sugar Singh S/o Shri Lalta Prasad, S1.No.5 was absent. The applicant claims that he got 75 marks and stood second in the written test. 11 candidates from the unreserved category have been selected in which the applicant's name does not find mention. The applicant has alleged violation of the selection/ examination rules and procedures. According to the applicant whereas vide office letter dated 3.6.1999 Shri Lala Ram Gutti has been shown in SC category but in the office note dated 22.7.1999 he has been included in the general category. The applicant has contended that after the decision in the case of Indra Sawhney etc. Vs. Union of India, AIR 1993 , SC 477 the continuance of the provision of reservation for promotion is against the law, and, therefore, in the present case all the 14 vacancies would have been advertised for general category. Since 14 general category candidates qualified in the written test, all of them should have been selected for the 14 vacancies. The applicant has taken exception to the respondents' action in providing for reservation for candidates belonging to SC and ST categories but sought reservation for OBC category.

3. The applicant has sought quashing of the selection/ appointment of all the said 11 candidates for

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the post of PWM in Engineering Department against 25% LDCE quota (safety post). However, he has also claimed his own selection/ appointment on the afore-stated post.

4. The respondents have stated in their counter that having participated in the test and interview for the post of PWM and having failed in the selection process, the applicant cannot be allowed to turn around and agitate <sup>against us</sup> the selection. The respondents have admitted that though the applicant had passed in the written test, the selection for 11 posts of PWM was on the basis of the combined result of the written test and interview based on over all merits. The selection had been made as per the prescribed rules and procedure. The applicant was not selected on the basis of over all merit. Because PWM post is a safety post, no relaxation is permissible in standards to the reserved categories. There is no reservation in the matter of promotion to OBC category. The applicant has filed a rejoinder as well.

5. We have heard the learned counsel of both parties and carefully examined the material available on file as well as that produced by the respondents during the course of hearing. From the record, we find that the respondents had fixed a bench mark of 60% marks in the combined result of the written test, viva voce etc. The respondents had fixed 35 marks for the written test, 15 for viva voce, 20 for leadership, 15 for record of service and in this manner a total of 85 marks were fixed. Candidates who secured 60% marks out of the

(J.B)

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total of 85 thus fixed were declared suitable for selection of PWM grade (safety post) against 25% LDCE quota.

6. We have satisfied ourselves that the applicant had not secured 60% marks in the selection process and, therefore, was not declared suitable by the selection committee for the post of PWM against 25% LDCE quota. Although the respondents had originally contemplated filling up 14 posts of PWM through LDCE, ultimately they filled up only 11 as the rest of the candidates could not reach the bench mark prescribed in the selection process. Under the instructions there is no <sup>relaxation in</sup> <sub>in standards</sub> prescribed <sup>for</sup> reserved categories in promotion to the post of PWM being a safety post.

7. In view of the fact that no relaxation is <sup>in standards</sup> prescribed <sub>for</sub> reserved categories in the matter of promotion to the post of PWM (safety post), the applicant having participated in the selection process and not attained the bench mark which had been prescribed by the respondents in a rational manner, there is no merit in the contentions of the applicant.

8. Having regard to the above discussion, the OA is dismissed. No order as to costs.

V.K.Majotra

(V.K.Majotra)  
Member (A)

Lakshmi Swaminathan

(Mrs.Lakshmi Swaminathan)  
Member (J)

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