

Central Administrative Tribunal
Principal Bench

O.A. No. 1747 of 1998

New Delhi, dated this the 19 January, 2000

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Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

1. Ms. Indira Kumari
D/o late Shri Ram Kumar,
Enquiry & Reservation Supervisor,
New Delhi.

2. M.S. Begum Rani,
W/o Shri M.H. Zaidi

3. Mrs. Shanti,
W/o Shri M.P. Sachdeva

4. Mrs. Savita Rani,
W/o Shri V.K. Sharma

5. Mrs. Shashi Bala,
W/o Shri Om Parkash

6. Mrs. Suman Sahni,
W/o Shri Rajinder Lal

7. Mrs. Sunita Chandra,
W/o Shri Keshav Chandra

8. Mrs. Rita Gill,
W/o Shri G.S. Gill

9. Mrs. Rashmi Sharma, ... Applicants
W/o Shri Ajay Sharma

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India through
the General Manager,
Northern Railway, Baroda House,
New Delhi.

2. Shri Kamlesh,
Enquiry & Reservation Supervisor

3. Ms. Manju Lamba
Enquiry & Res. Supervisor

4. Ms. Jaswant Kaur,
Enquiry & Res. Supervisor

5. Shri Kirori Ram,
Enquiry & Reservation Supervisor

6. Ms. Nirmal

7. Nirmal R. Fandan

8. Ms. Santosh Kumari

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9. Ms. Sarita Kanojia
10. Ms. Leela
11. Shri Shiv Narain Meena
12. Ms. Ramesh Kumari
13. Shri Ajit Kumar Kandula
14. Shri Man Singh Meena
15. Ms. Sumanlata Meena
16. Ms. Uma Tomar

All are working as Enquiry & Reservation Supervisor
IRCA Building, Reservation Office, Northern Railway,
Chelmsford Road, New Delhi. ... Respondents

(By Advocate: Shri B.S. Jain)

ORDER

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

In this O.A. filed on 8.9.98 the 9 applicants had sought a direction to respondents not to proceed with the selection for the post of Chief Enquiry-cum-Reservation Supervisor initiated vide letter dated 8.5.98 (Annexure A2) and not to consider SC/ST employees for promotion against vacancies vacated by General Category employees in the promotion cadre. A direction was sought to respondents to process fresh selection as per law laid down by the Hon'ble Supreme Court.

2. When the O.A. came up for preliminary hearing on 9.9.98 a prayer was made on behalf of applicants to stay the announcement of the results of the selections held following the letter dated 8.5.98. That prayer for a stay order was rejected but it was made clear that any selections made by respondents would be subject to the outcome of this

O.A. *(Signature)*

(2)

3. Selection for the post of Chief Enquiry & Reservation Supervisor (C.E.&R.S.) was conducted by respondents vide letter dated 8.5.98 for 25 vacancies (22 General and 3 SC). The vacancies were subsequently reduced vide letter dated 21.5.98 (Annexure R-1) from 25 to 21 (20 General & 1 SC) because of reduction in anticipated vacancies owing to increase in age of retirement from 58 to 60 years. Sixty three candidates including applicants appeared in the written test, of whom 39 were declared qualified and suitable for being called for the viva voce test. Applicants have not denied that they failed to qualify in the written test. The viva voce test was held on 3.9.98, and out of the 39 candidates, 21 were found suitable and were placed on the panel vide letter dated 8.9.98.

4. Applicants contend that as per law laid down by the Hon'ble Supreme Court in R.K. Sabharwal Vs. State of Punjab 1995 (29) AT 481 and Union of India Vs. J.C. Malik SLJ 1996 (1) SC 114 SC candidates could not have been considered for posts vacated by General Category candidates in the promotion grade of C.E. & R.S. It is contended that respondents had illegally allowed SC/ST candidates to compete for posts vacated by general category employees and had also passed SC employees in the written test by applying relaxed standards for them, which was in breach of the principles of law laid down by the Hon'ble Supreme Court in the case of S. Vinod Kumar Vs. Union of India.

(3)

5. On the other hand respondents submit that the posts for which selections were conducted were earmarked for SC/ST/UR as per principles of law laid down in Sabharwal's case (supra) and Railway Board's instructions dated 21.8.97. It is stated that out of 21 vacancies, one post was reserved for SC candidates and 20 were unreserved. Respondents state that they follow Railway Board's instructions except in a particular case where Court's directions are to be implemented. They state that as per Railway Board's instructions dated 16.4.74 (Annexure R-2) minimum qualifying marks in written test for SC/ST candidates should be 10 out of 35 as against 21 out of 35 marks for Unreserved candidates. The marks required by SC/ST candidates are 50% in professional ability and in aggregate whereas 60% are required by Unreserved candidates.

6. Respondents admit that SC/ST candidates were called for the selection and given accelerated promotion and assigned seniority in the feeder cadre of Enquiry & Reservation Supervisor (Rs.1600-2660) on the basis of the quota reserved for them. It is stated that as per Railway Board's letter dated 28.2.97 (Annexure R-3) the seniority assigned pursuant to accelerated promotions prior to 10.2.95 is not to be disturbed and as such the seniority of SC/ST candidates who were promoted as Enquiry and Reservation Supervisor (Rs.1600-2660) prior to 10.2.95 was not changed and they were called in the selection as per their seniority position.

(A)

7. Applicants have filed rejoinder in which they have broadly reiterated their contentions.

8. We have heard both sides.

9. As noted above, applicants have not denied that they failed to qualify in the written test in which they appeared, which was a part of the selection process. It is because they failed to qualify in the written test, that they were not called for the viva-voce test, as averred by respondents in Paragraph 4.10 of their reply to which there is no specific denial in rejoinder. That being the factual position and applicants having failed to qualify at the very threshold of the selection process, their challenge to the selection held by respondents fails.

10. The OA is dismissed. No costs.


(KULDIP SINGH)

MEMBER(J)


(S. R. ADIGE)
VICE CHAIRMAN(A).