

15

Central Administrative Tribunal
Principal Bench

O.A. 2321/98

New Delhi this the 4 th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri M.P. Singh, Member(A).

Mrs. Florance Lugun (Kundana),
Chief Reservation Supervisor,
Northern Railway,
Railway Station,
Delhi.

... Applicant.

By Advocate Shri B.S. Mainee.

Versus

Union of India through

1. The General Manager,
Northern Railway,
Bardoa House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

... Respondents.

By Advocate Shri R.P. Aggarwal.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order passed by the respondents dated 16.11.1998 promoting certain other persons to Group 'B' Service in the Commercial Department, where her name has been omitted.

2. The main contentions of Shri B.S. Mainee, learned counsel is that the applicant had qualified in the written examination held on 22.8.1998 for promotion from Group 'C' to Group 'B' Service and she is the seniormost among Scheduled Tribes (ST) candidates and No. 3 in the seniority list. Admittedly, a selection was held by the respondents in

88/

pursuance of their order dated 3.7.1998 for promotion to Group 'B' posts of Assistant Commercial Manager (ACM) against 70% quota to form a panel for 27 posts, including reservation for 4 Scheduled Caste (SC) and 2 ST candidates.

3. The Tribunal by interim order dated 27.11.1998 had directed that one post of ACM in ST category should be kept vacant. By another order dated 1.9.1999, the respondents were directed to keep available the relevant records which have been produced by the respondents. These records have also been shown to Shri B.S. Mainee, learned counsel for the applicant at the time of hearing.

4. The result of the written examination held on 22.8.1998 was declared by letter dated 30.9.1998 and the applicant had qualified in that test. The main contention of the applicant's counsel is that since she has qualified in the written test and is placed at the third position in the seniority list, being also the seniormost among the ST candidates, the respondents ought to have promoted her as ACM. The respondents through Railway Board had issued letter dated 20.8.1991, copy placed on record, regarding selection procedure for promotion from Group 'C' to Group 'B' Service. For written test, it has been prescribed that qualifying marks are 90 which the applicant has admittedly obtained. For 'Record of service and viva-voce' qualifying marks have been prescribed as 30, but she has got only 28 marks. At this stage, the learned counsel has alleged that the viva-voce marks allotted to the applicant have been done mala fide and should, therefore, be ignored and she should be treated as having qualified and given promotion, taking into account her

18/

high seniority position in the seniority list. The learned counsel has also very vehemently submitted that the respondents have not taken into account the lower standards which should be applied to ST candidates like the applicant.

5. We have perused the records and heard Shri R.P. Aggarwal, learned counsel for the respondents.

6. From the records, it is clear that the applicant had qualified in the written test by obtaining 90 marks but had failed in the second half, pertaining to record of service and viva-voce as she had obtained only 28 marks. The contention of Shri B.S. Mainee, learned counsel that the viva-voce marks have been deliberately lowered so that the applicant does not qualify and so on is a mere after thought as there is nothing on record to prove ¹⁸these allegations. The applicant was well aware of the selection procedure conveyed through Railway Board's letter dated 20.8.1991 for promotion from Group 'C' to Group 'B' Service. As the applicant has admittedly not obtained qualifying marks for promotion, we do not find any wrong action or any other ground to fault the respondents who have adhered to the relevant rules and instructions in this case. The contention of the learned counsel that the respondents have not taken into account the lower standards which should be applied to ST candidates like the applicant is without any basis as the respondents have stated that they have also promoted several other ST candidates. It cannot,

18/

18

-4-

therefore, be presumed that the respondents have acted de hors the rules.

7. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.

M.P. Singh
(M.P. Singh) 4/2/2000
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'