

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 171/96

New Delhi this the 3rd day of December 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)

Hon'ble Mrs Shanta Shastry, Member (A)

1. Shri Balwant Singh, Head Clerk  
Statistical Branch, Northern Railway  
Delhi Kishan Ganj, Delhi-7.
2. Shri Lakshmi Chand, Head Clerk  
Statistical Branch, Northern Railway  
Baroda House, New Delhi.
3. Shri Bhagat Ram, Head Clerk  
Statistical Branch, Northern Railway  
Delhi Kishan Ganj, Delhi-7.

...Applicants

(By Advocate: Shri P.M. Ahlawat)

Versus

1. Union of India through  
General Manager, Northern Railway  
Baroda House, New Delhi.
2. Smt. Sunita Roy, Head Clerk  
Statistical Branch, Northern Railway  
Jodhpur (Rajasthan).
3. Smt. Shashi Kala Punia, Head Clerk  
Statistical Branch, Northern Railway  
Jodhpur (Rajasthan).
4. Smt. Satish Prabha, Head Clerk  
Statistical Branch, Northern Railway  
New Railway Colony, Jullunder City.
5. Shri Krishan Veer, Head Clerk  
Statistical Branch, Northern Railway  
Delhi Kishan Ganj, Delhi-7.

...Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER (Oral)

By Hon'ble Mrs. Shanta Shastry, Member (A)

The applicants are Head Clerks working under the respondents. A selection for filling up 39 vacancies including 4 for Scheduled Castes and 3 for Scheduled Tribe candidates of Office Superintendents

Grade-II was initiated in July 1995. 85 Head Clerks were called to appear for the written test of selection held on 5.8.95 and 12.8.95. The viva voce test was held on 16.11.95 and the applicants also were called for the test. Thereafter a panel of 37 selected candidates was declared on 26.12.95.

2. The APO (HQ) issued the promotion and posting order on 28.12.95 of 32 empanelled candidates as Office Superintendents Grade-II in the pay scale of Rs. 1600-2660. The applicants were not considered for promotion in this list. Aggrieved by the same, the applicants have approached this Tribunal with a prayer to direct the Respondent No.1 to consider their cases for empanelment.

3. The contention of the learned counsel for the applicants is that these applicants secured more than 50% marks as has been prescribed in the instructions issued by the Railway Board for SC/ST candidates. The general standard for passing the test was 60%. However, relaxation was granted to SC/ST candidates of 50% of marks. Since the applicants have secured more than 50% marks they should have been promoted as against the slots reserved for the SC/ST candidates.

4. Learned counsel for the respondents submits that the examination was held for selection to the post of Superintendents on the basis of merit alone and the minimum requirement was of 60% for all including the SC/ST candidates and, therefore, those who got 60% and above marks, are empanelled as

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against 39 vacancies. They could empanel only 37 candidates who secured the requisite 60% and above marks. Amongst the 37 candidates who finally qualified, only 4 candidates belonging to SC category secured more than 60% marks and as such they were adjusted against the slots reserved for SC candidates with a view to give them the benefit of higher seniority. Therefore, the question of taking the applicants who had not secured 60% marks does not arise.

5. The issue for consideration, therefore, is whether the applicants are entitled for promotion against the SC quota even though they secured less than 60% of marks.

6. Instructions have been issued by the Railway Board in the past granting a relaxed standard for the SC/ST candidates. However, by their instructions dated September 1994 the Northern Railway have prescribed the procedure for calling SC/ST candidates for viva voce for filling up selection post in the Non-Gazetted category. An extract of the relevant instructions is re-produced below:-

"By applying the general standard for qualifying a selection for empanelment, the selection committee should first draw list of candidates who can be empanelled. This list should be checked up whether this contains the required number of candidates belonging to SC and ST as per 40 Point Roster. In case of deficiency the same should be made good by including the other reserved candidates who pass by relaxed standards."

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7. These instructions were re-iterated vide their Circulars dated 8.3.89 and 16.6.92. It has been further stated that:

"If there are some reserved vacancies then the list shall first be drawn only as per general standards. If adequate No. SC/ST candidates become available, no further action is required.

If there are some reserved vacancies by following general standards adequate No. of SC/ST candidates do not become available then those qualifying by relaxed standards should be included to make good the deficiency."

8. In view of these instructions it is very clear that if there are some reserved vacancies then the list shall first be drawn only as per general standard and if adequate number of SC/ST candidates become available no further action is required. By following the general standards if some more vacancies or some more slots for the reserved categories are available but the requisite number of SC/ST candidates do not become available then those qualifying by relaxed standards can be included to make good <sup>the</sup> deficiency.// In the instant case there were four slots reserved for SC candidates and four candidates who qualified by the general standards were available. Accordingly they were adjusted against the quota for the SCs. The question, therefore, of taking other SC/ST candidates qualifying by relaxed standards did not arise. Learned counsel for the applicant has relied upon the Railway Board's letter dated 17.7.70 whereby the minimum qualifying marks prescribed for SC/STs is 50%. The letter dated September 1994 of the Northern Railway has taken into consideration the various instructions that have been issued from time to time with regard to calling the SC/ST candidates for viva

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voce test after written test. Therefore, these later instructions would prevail over the earlier instructions.

9. Learned counsel for the applicant has also contended that according to the roster points for promotion, six vacancies need to be reserved for SCs while the respondents have shown only four. According to us this particular point is not relevant in the light of the instructions of September 1994 wherein it has been stipulated that for qualifying in the written test, the general standard is of 60% including for the candidates from the SC/STs.

10. We have perused the record of the selection of the candidates and we note that there were only four candidates of SC who have qualified by general standards. No other SC candidate has qualified by the general standards. Learned counsel for the respondents avers that there are only four posts for the SC and three posts for the ST as per the roster.

11. The applicants, therefore, have no case. In case, however, if <sup>it</sup> ~~a~~ transpires that there are more than four slots for the SC as per the roster then the respondents may consider the applicants against those slots according to the last instruction given in the instructions of the Northern Railway dated 27.9.94.

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12. The OA. is disposed of with the above observations. No costs.

*Heena J.*

(Mrs. Shanta Shastry).  
Member (A)

*V. Rajagopala Reddy*

(V. Rajagopala Reddy)  
Vice-Chairman (J)

cc.