

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1698 of 1996

New Delhi, this 11th day of April, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Jeetmal Meena
S/o Shri Kanwar Lal
Highly Skilled Fitter Gr.I
Under Sr. Divisional Elect. Engineer
Electric Loco Shed
Tughlakabad, Western Railway
New Delhi ...Applicant

(By Shri B.S. Maine, Advocate)

versus

1. The General Manager
Western Railway
Churchgate
Bombay
2. The Divisional Railway Manager
Western Railway
Kota
3. The Sr. Divisional Electrical Engineer
Electric Loco Shed, Western Railway
Tughlakabad
New Delhi. ...Respondents

(By Shri P.S. Mahendru, Advocate)

Order (oral)

By Reddy, J.

Heard the counsel for the applicant and the respondents.

2. The applicant was working, at the relevant point of time, as Highly Skilled Fitter, Grade-1 in the Railways. By letter dated 19.10.1995 a selection by way of competitive examination was sought to be held for promotion to 4 posts of Chargeman in the grade of Rs.1400-2300. Out of 4 posts, 1 was reserved for SC and 1 for ST candidates. The applicant who



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was ST candidate had applied for the selection. More than 113 eligible candidates were called for the written examination. The applicant was one of them. Out of them only 11 could qualify after the written examination. The name of the applicant figured at sl.no.7 in the list prepared. Out of 11 successful candidates there was only one candidate belonging to SC category and one ST category, i.e. the applicant and the rest belonged to General category candidates. The applicant was called for viva voce test. He appeared in the viva voce test and he had done extremely well. After holding the viva voce test, a panel of three candidates was declared on 24.7.1996. The name of the applicant was however not found in the said panel. ^{Against} The vacancy reserved for ST no person was appointed since the applicant was only ST who had been successful in the examination.

3. It is contended by the learned counsel for the applicant, Shri B.S. Maine that the applicant having successfully qualified in the written examination there was no reason for not empanelling the applicant in the ST vacancy and it is contended that even though the applicant was not qualified in the viva voce test, he should have been promoted on ad hoc basis against the vacancy reserved for ST. The learned counsel relies upon the Railway Board's letter dated 31.8.1974.

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4. It is contended by the learned counsel for the respondents that the selection comprised of written as well as viva voce test and the candidates should have been successful both in written examination as well as viva voce test and as per para 219 of IREM Vol.I the candidate should obtain 60% marks in aggregate for being placed on the panel. As the applicant could not qualify in the selection, he was rightly not empanelled. It is also contended by the learned counsel for the respondents that the post being in the safety category, the question of relaxed standards will not arise. The relaxation of standard will be applicable only in the case the post does not fall in the safety category.

5. We have perused the pleadings and considered the arguments advanced by the learned counsel on either side.

6. It is not in dispute that the selection was made for four posts out of which one was for SC and one for ST and the remaining two for General candidates. It is also not in dispute that the applicant was the only ST candidate who has been qualified in the written examination. There can be no doubt that the applicant was not qualified in the viva voce test and hence not qualified for selection. But it should be seen

(Signature)

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that the applicant was the only ST candidate who had been qualified in the written examination and the vacancy for ST candidate has not been filled up. It may be that the applicant was not qualified in the viva voce test and also lacked in getting the aggregate percentage of marks as required under the rules. Though, it is stated by the learned counsel for the respondents that the post is a safety category post and hence no relaxed standard can be applied, no material is placed before us in support of the said assertion. Even assuming that the post falls in the safety category post, when a ST vacancy goes unfilled the department should have taken all steps to fill it up as per the circulars that are in vogue from time to time. In similar situation the CAT Ahmedabad Bench in Ramdayal Chhitarmalji Meena Vs UOI & Ors [ATC 1996(1) 16] relied upon the following Railway Board's decision dated 31.8.1974, in identical circumstances:

"The matter has been further considered by the Board and it has been decided that if during the selection proceedings it is found that the requisite number of Schedule Caste and Schedule Tribe candidates are not available for being placed on the panel inspite of the various relaxations already granted, the best among them i.e. those who secure the highest marks should be earmarked for being placed on the panel to the extent vacancies have been reserved in their favour. The panel excluding the names of such persons may also be declared provisionally. Thereafter the Scheduled Caste and Scheduled Tribe candidates who have been so earmarked may be promoted ad hoc for a period of six months against the vacancies reserved for them. During the said six months period, the



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Administration should give them all facilities for improving their knowledge and coming up to the requisite standard if necessary by organising special coaching classes. At the end of the six month's period, a special report should be obtained on the working of these candidates and the case put up by the Department concerned to the General Manager through S.P.O.(R.P) for a review. The continuance of the Scheduled Caste and Scheduled Tribe candidates in the higher grades would depend upon this review. If the candidates are found to have come upto the requisite standard their names would be included in the panel and the same finalised; otherwise their names should not be included in the panel and the vacancies de-reserved and be filled in the usual manner by the candidates from other communities.

The procedure indicated in the preceeding para would also apply to promotion to the posts filled on the basis of seniority cum suitability with the only difference that the review at the end of six month period would be carried out by the authority competent to approve the Select list."

7. From the above it is clear that even if reserved ST candidate had not come up to the mark for empanelment he would be entitled to be considered for ad hoc promotion for a period of six months and to review his case after a period of six months. This procedure has not been followed in the present case.

8. In the circumstances, we direct the respondents to take further action as contemplated in Railway Board's circular dated 31.8.1974, within six weeks from the date of receipt of copy of this order and take necessary action to give ad hoc promotion to the applicant for a period of six months and consider the case

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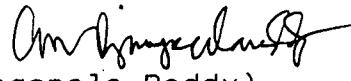
(b)

of the applicant for continuance or otherwise as stipulated in the circular itself, It is stated by the learned counsel for the applicant that the post has not been filled up as no ST candidate is available.

9. The OA is accordingly disposed of. No order as to costs.

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(Mrs. Shanta Shastry)
Member(A)


(V. Rajagopala Reddy)
Vice Chairman(J)

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