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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.552/96

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 19th day of January, 2000

Shri Parimal Singh
s/o Shri Hari Singh
Constable
Railway Protection Force
under Sr. Divisional Security
Commissioner (P.I.Branch)
Northern Railway
Pauchan Road
New Delhi
r/o 47-B Railway Colony
Tughlakabad
New Delhi. ... Applicant

(By Shri B.S.Mainee, Advocate)

vs.

Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi. ... Respondent

(By Shri Rajinder Khattar, Advocate)

ORDER (Oral)

By Ashok Agarwal, J

The present case is covered by the decision of the Supreme Court in the case of M.Ramjayaram Vs. General Manager, South Central Railway & Ors., 1996 (1) S.C.Service Law Judgments Page 537. The same provides that when selections are to be made from different sources seniority is not to be taken into account.

2. By the present OA the applicant is aggrieved by his name not being placed on the panel dated 18.4.1995 in order of his merit in the tests held on 5.4.1995 in respect of selections from different sources to the post of Hindi Assistant Grade-II in the pay scale of Rs.1400-2300. The

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learned counsel appearing on behalf of the respondents has placed for our perusal the marks sheet in regard to the marks secured by various candidates which includes the applicant in the present OA. The said marks sheet shows that for the purpose of the aforesaid selection the marks prescribed were in the manner provided in Rule 219(g) of Indian Railway Establishment Manual Vol.I which are as under:

"Selection should be made primarily on the basis of overall merit, but for the guidance of Selection Board the factors to be taken into account and their relative weight are laid down below:-

		Maximum Marks	Qualifying Marks
(i)	Professional ability	50	30
(ii)	Personality, address, Leadership and academic qualification	20	--
(iii)	A record of service	15	--
(iv)	Seniority	15	--

NOTE(i) The item 'record of service' should also take into consideration the performances of the employee in essential Training Schools/ Institutes apart from the examining CRs and other relevant records.

E(NG) I.72/PM 1/192 dt. 27.6.73

(ii) Candidates must obtain a minimum of 30 marks in professional ability and 60% marks of the aggregate for being placed on the panel. Where both written and oral tests are held for adjudging the professional ability, the written test should not be of less than 35 marks and the candidates must secure 60% marks in written test for the purpose of being called in viva-voce test. This procedure is also applicable for filing up of general posts. Provided that 60% of the total of the marks prescribed for written examination and for seniority will also be the basis for calling candidates for viva-voce test instead of 60% of the marks for the written examination.

E(NG) I/72/PM-1/158 dt. 12.12.73 & E(NG) I/83/PM 1/65 dt. 5.12.1984."

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3. As far as the applicant is concerned he figures at Sl. No.10 (Parimal Singh). He has secured 4 marks out of 15 under the head of Seniority, 8 out of 15 for record of service, 22.05 out of 35 towards written test, 09 marks out of 15 for viva voce (oral) test and 15 out of 20 for personality address and Leadership and Additional Technical qualifications, making grand total of 58.05. Since he is found to have secured less than 60 per cent marks in the aggregate he has been shown as failed under Rule 219(g)(ii) of the Indian Railway Establishment Manual Vol.I. As far as the other candidates, whose names figure in the result sheet, are concerned, marks have been assigned in their favour also for seniority and under the aforesaid different heads. Several candidates who have shown to have passed, have secured lesser marks than the applicant under heads other than the one for seniority. They have secured more marks in the aggregate over the applicant on account of higher marks granted in their favour under the head of seniority. For instance, the candidate at Sl. No.4, Shri Manoj Kumar --- has obtained aggregate marks of 52.05 under heads other than that of seniority. He has been awarded 11 marks under the head of seniority. If marks assigned for seniority are ignored applicant has secured 54.05 marks whereas Shri Manoj Kumar has secured 52.05. Hence in case the marks assigned under the head of seniority are to be ignored, the applicant would secure higher marks than the said Shri Manoj Kumar.

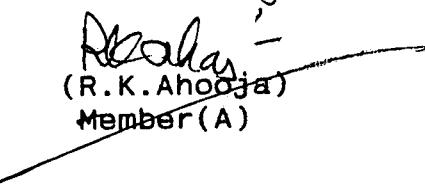
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4. In the aforesaid decision of the Supreme Court which dealt with a situation practically identical to the one arising in the present case, the Supreme Court has observed as follows:

"In this case since the contesting respondents are not from the same unit but of different units, Rule 320 stands excluded, weightage of 15 marks for seniority given to the respondents obviously is illegal. Therefore, there is force in the contention of the appellant that his non-selection tantamounts to arbitrary exercise of power on the part of the respondent Nos.1 and 2. We set aside the order of the CAT, The respondents are directed to consider the selection according to rules and make appointment according to law."

5. In the circumstances, we set aside the selections made in the tests held on 5.4.1995 in so far as the same declines to place the applicant on the panel dated 18.4.1995 on the ground that he has failed. We accordingly, direct the respondent to reconsider the selection of the applicant according to Rules. This be done without considering the marks assigned under the head of seniority. Similarly while considering the eligibility for being put on the panel the percentage of marks i.e. 60% should be in relation to the marks assigned on heads other than that of seniority i.e. out of 85 marks and not 100. On this exercise being done we direct Respondent to place the applicant on the panel if he is found to be eligible. If he is found eligible, it goes without saying that he will be entitled to all the consequential reliefs. This would be done within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(Ashok Agarwal)
Chairman


(R.K. Ahoja)
Member (A)