

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 907/96

New Delhi this the 15th day of July 1997

Hon'ble Shri N.Sahu, Member(A)
Hon'ble Dr.A.Yedavalli, Member(J)

Shri D.D.Sharma,
Chief Permanent Way Inspector,
Central Railway, Mathura Junction
Palwal.

(By Advocate: Shri R.K.Kamal)Applicant

Versus

Union of India through

1. The Secretary,
Railway Board, Rail Bhawan,
Rafi Marg, New Delhi.

2. The General Manager,
Central Railway,
Bombay.

(By Advocate: Shri Rajeev Sharma)Respondents

ORDER(Oral).

By Hon'ble Shri N.Sahu. Member(A)

The Prayer in this OA is for the following
reliefs:-

1. Rule 204.7 be set aside and quashed in its
present form.

2. The non-inclusion of the name of the applicant
in the panel of Assistant Engineer be declared arbitrary and
illegal.

3. The respondents be directed to hold a fresh
viva voce test for the applicant ignoring the uncommunicated
adverse remarks in Confidential Records and taking into
consideration the awards and commendation certificates issued
to the applicant with all consequential benefits.

4. Any other relief deemed fit by the Hon'ble
Tribunal in the interest of justice, including costs".

2.

The background facts in this O.A. are as under:-

In the year 1993 selection was conducted for filling up the post of Assistant Engineer Group-B Class-II. The selection process comprises of a written examination in which professional ability is tested and a viva voce test for those who qualify in the written test. The applicant was a candidate considered for this selection post. He appeared and qualified in the written test. He did not secure qualifying marks in the viva voce test, though for the "record service", he secured qualifying marks. He therefore was found to be "unsuitable". The applicant impugns non-selection on the ground that the Selection Committee did not take into consideration several instances of meritorious service in the form of awards given to him. He alleges that the Selection Committee took into account uncommunicated adverse remarks in one Confidential Report. He also states that the rules of selection viz; 204.7 IREM Vol-I. has conferred on the authorities certain unguided powers. He particularly draws our attention to the rule which is extracted at para 4.5. of the OA:

"Marks for record of service should be given on the basis of the Confidential report and relevant service record. Integrity of character should receive special consideration".

Ld counsel for the applicant argues that the rule only speaks of record of service on the basis of the Confidential Report and relevant service record. It further speaks of integrity of character. Taking us through the

counter affidavit, Ld counsel has pointed out some inconsistencies. It is stated on the one hand that the Committee scrutinized the records of the applicant and perused the awards and commendations of the applicant in which he qualified and on the other hand they say that the applicant had not qualified in the viva voce test. In particular at para-6 respondents have stated that the applicant secured qualifying marks in confidential report and also secured qualifying marks in record of service. If that, were so, there was no justification in disqualifying him in viva voce.

Ld counsel for the respondents has drawn our attention to rule 204.1 which specified the selection procedure. It is agreed that this is a selection post. There are three criteria mentioned for selection

		Maximum Marks	Qualifying Marks
i)	Professional ability	50	30
ii)	Personality, Address, Leadership & Academic technical qualifications	25	15
iii)	Record of Service	25	15
	Total Marks	100	60

Ld counsel also has placed before us the scroll of marks given by the Selection Board in respect ^{of} ~~the~~ viva voce test held on 2/3-2-95. He has taken us through the averments made in the counter affidavit. Ld counsel for the applicant did not press the first relief challenging the vires of the rule 204.1. ^{Rule 204.1} ~~204.1~~ outlined a selection procedure. It is a statutory rule and as long as selection is based on this

rule, there is no cause for interference. Out of the three criteria, the first "Professional Ability" deals with the written test in which applicant has qualified. With regard to the third criteria "record of service" the noting shows that the applicant had also secured qualifying marks. It was only with regard to the viva - voce which tested "personality, address, leadership and academic technical qualifications", we notice that the applicant did not secure qualifying marks. Since he did not secure qualifying marks, he was not considered suitable for promotion. We have perused the entire list of marking given to all the candidates. We noticed that where-ever qualifying marks were not given in the viva voce test, several candidates were declared unsuitable for promotion.

There is no averment on record that the rules have been violated. There is no averment on record stating that the Competent Selection Board has not objectively considered the applicant's case. After all the applicant is one among the 58 candidates who appeared for the interview. Applicant's vague allegation about adverse remarks in the Confidential Reports has no relevance because he scored qualifying marks in the Confidential Reports. A Selection Board as long as it functioned within the para-meters of the rules for conducting the selection can not be questioned as to why applicant was given less marks in viva. It is made clear that there is no specific allotment of marks for awards and commendation certificates per se. Such evidence of merit must

have gone into the grading given to the applicant's performance in his Confidential reports which were separately considered.

There is no material to impugn the objectivity of the Selection Board in giving less than qualifying marks. We find no merit in this O.A. Accordingly the O.A. is dismissed. Ed counsel for the respondents did not press the ground in the counter affidavit relating to jurisdiction.

A. Vedavalli

(Dr. A. Vedavalli)

Member(J)

Narasimha Sahu

(N. Sahu)

Member(A)

cc.