

Central Administrative Tribunal
Principal Bench

O.A. No. 15 /97 Decided on 23.9.99

Gurpreet Singh & Anr. Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India & Ors. Respondents

(By Advocate: Shri N.K. Aggarwal)

CORAM

Hon'ble Mr. S.R. Adige, Vice Charman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or Not? **YES**
2. Whether to be circulated to other outlying benches of the Tribunal or not? **NO**

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN (A)

Central Administrative Tribunal
Principal Bench

O.A. No. 15 of 1997

New Delhi, dated this the 23rd September 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

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S/Shri

1. Gurpreet Singh,
S/o Shri Waryan Singh,
Ad hoc Inspect or Works,
Northern Railway,
Patiala, Punjab.

2. Arun Kumar,
S/o Shri Ram Singh,
Ad hoc Inspect or Works,
Northern Railway,
Ludhiana,
Punjab.

... Applicants

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

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

2. Chief Administrative Officer,
Northern Railway, Kashmere Gate,
Delhi.

3. The Divisional Railway Manager,
Northern Railway,
Ambala Cantt.

4. The Dy. Chief Engineer (Construction),
Northern Railway, Chandigarh.

5. The Senior Civil Engineer (Construction),
Northern Railway,
Ludhiana, Punjab.

... Respondents

(By Advocate: Shri N.K. Aggarwal)

ORDER.

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicants impugn their non-inclusion in the

2

provisional panel dated 22.11.96 for the post of IOW Gr. III (Rs. 1400-2300). (2A)

2. Admittedly applicants were promoted to the post of IOW Gr. III on ad hoc basis in Construction Organisation w.e.f. 15.7.85/2.12.90 and were called for selection for promotion as IOW Gr. III on regular basis. The selection process comprised written test and viva voce test. Applicants qualified in the written test held on 24.8.96 and 29.8.96, vide respondents' letter dated 6.9.96 (Annexure 6), but after completion of the viva voce test, applicants not finding their names in the impugned provisional panel dated 22.11.96, have filed this O.A.

3. We have heard applicants' counsel Shri Mainee and respondents' counsel Shri N.K. Aggarwal.

4. Shri Mainee has relied upon Circular No. 831-E/63/2X(E-IV) dated 19.3.76 of the Railway Board, reproduced in the Hon'ble Supreme Court's order dated 3.11.95 in SLP (C) No. 9866/93 R.C. Srivastava Vs. UOI & Ors. and has contended that as the work of applicants as IOW Gr. III on ad hoc basis was satisfactory they could not be declared unsuitable in the viva voce test by respondents. Reliance has been placed on the Hon'ble Supreme Court's order in

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R.C.Srivastava's case (Supra) as well as the CAT,
 P.B. order dated 15.10.96 in O.A. No. 810/96 Shri
 Veer Sen Vs. UOI & Others.

35

5. In this connection we had called for the file maintained by respondents regarding the selection for the post of IOW Gr. III finalised on 21.11.96. From a perusal of the same, we note that professional ability carries 50 marks; personality and address carries 20 marks; record of service carries 15 marks; and seniority carries 15 marks; totalling 100 marks in all. Professional ability carrying 50 marks is itself divided into 35 marks for written test and 15 marks for viva voce test. Applicant No. 1 Gurpreet Singh secured 21/35 in written test and 8/15 in viva voce test, bringing his total in professional ability to 29/50. Similarly applicant No.2 secured 22.40/35 in written test and 4/15 in viva voce test bringing his total to 26.40/50 in professional ability. It is clear that in both cases it was the relatively low marks that applicants secured in the viva voce test which was responsible for their non-inclusion in the panel.


6. There are no materials on record to establish that applicants work as IOW Gr. III on ad hoc basis was unsatisfactory, and the fact that they continued to be retained in that capacity ever since their ad hoc promotion leads us to conclude that their work was satisfactory. Under the


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36

circumstances, as in R.C. Srivastava's case (supra) the present applicants also are entitled to the benefit of the circular dated 19.3.76.

7. This O.A. therefore succeeds and is allowed to the extent that respondents are directed to review the impugned panel dated 22.11.96 and consider inclusion of the names of applicants therein. In the event of any body having to go out of the panel as a result of this process, such person shall be put on notice and his objections considered before final orders are passed by respondents. These directions should be implemented within four months from the date of receipt of a copy of this order. No costs.


(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)


(S.R. ADIGE)
VICE CHAIRMAN (A).