

Central Administrative Tribunal, Principal Bench

Original Application No. 49 of 1997

New Delhi, this the 15 day of May, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Shri V.K.Majotra, Member (A)

1. Shri Sujan Singh, S/o Shri Birbal Singh.
2. Shri Ompal Singh, S/o Shri C.B.Singh.
3. Shri J.S.R.Arya, S/olate Shri Sati Ram.
4. Shri Braj Mohan, S/o Shri Hira Lal.

All working as Junior Engineers (1) under
Sr. Divisional Electrical Engineer, EMU Car
Shed, Northern Railway, New Delhi. - Applicants

(By Advocates Ms.Meenu Mainee and Shri B.L.Madhok)

Versus

Union of India : Through

1. The General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern
Railway, State Entry Road, New Delhi.
3. The Sr. Divisional Electrical Engineer,
EMU Car Shed, Northern Railway, New Delhi. - Respondents

(By Advocate Shri O.P.Kshatriya)

O R D E R (Oral)

By Smt.Lakshmi Swaminathan, Member(J)-

The applicants, four in number, have impugned
the order dated 27.11.1996 (Annexure-A-1) passed by the
respondents.

2. The aforesaid impugned order is an order
passed by the respondents in which they have stated that
the sanction of the competent authority viz.AGM has been
accorded for dereservation of one post of ST falling at
roster point no.31 of 1st cycle and one post of SC
falling at roster point no.1 of 2nd cycle in the
category of Senior Traction Foreman (in short 'STFO') in
the scale of Rs.2000-3200 (RPS) (Safety Category).

3. The applicants, except applicant 4, were
appointed as Khallasis and were later promoted as

JB

Chargemen in the year 1992 in the scale of Rs.1400-2300.

They have stated that the next higher post is Traction Foreman in the grade of Rs.1600-2660, and further next higher post is that of STFO in the grade of Rs.2000-3200.

4. The applicants have filed an amended OA on 3.2.1997. In the cover page of this amended OA it is noticed and admitted by the learned counsel for the applicants that the 'Application under Rule 4(5) of the A.T.Act' (sic) has been scored out and the other documents have been renumbered, including the annexures which were filed with the original OA.

5. Admittedly, applicant 1, Shri Sujan Singh, had appeared in the selection held for promotion to the post of STFO in February, 1996. He could not qualify the written test and so he was not selected in the 1996 selection. Admittedly, applicant 1 has retired from service on superannuation with effect from 30.11.1996 and the respondents have stated that his retiral benefits have since been paid to him. The other applicants, namely, applicants 2-4 were in the grade of Rs.1400-2300 (RPS). According to the respondents these persons were, therefore, not eligible for selection to the grade of Rs.2000-3200 (RPS) as they ought to have been in the next below grade of Rs.1660-2660.

6. One of the grounds taken by Ms.Meenu Maine, learned counsel for the applicants, is that as the applicants were belonging to SC/ST categories, they ought to have been given the pre-selection training which was not done. The other main ground taken by her is that the respondents had not taken into account the

correct facts which had led to dereservation of the posts, the details of which are given in paragraph 4.15 of the OA.

7. The respondents in their reply have submitted that in the 1996 selection, 3 SCs and 1 ST were available in the immediate ~~below~~ below grade and they were called for the selection. Applicant 1 could not qualify the written test for this selection and the other remaining 2 SCs and 1 ST candidates, who qualified were promoted against their quota. They have also submitted that the averments made by the applicants in paragraph 4.15 are wrong and denied. According to them, as applicant 1 was due for retirement within six months of the declaration of the results on 31.7.1996, he could not be counted as eligible failed candidate which position was, therefore, correctly indicated in the proforma.

8. After hearing the learned counsel for the parties and perusing the records, a specific query was made to the learned counsel for the applicants whether an application under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, has been filed seeking permission to file a joint application. That query was answered in the negative. It is also seen from the facts mentioned in the OA that the four applicants, who have joined in this application, were working in different grades. In the circumstances the OA with regard to applicants 2 to 4 has to be rejected as there is no common cause nor they have even filed the necessary miscellaneous application seeking permission to file a joint application.

9. With regard to the remaining applicant i.e. applicant 1, it is seen from the facts mentioned above

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that he was allowed to appear in the selection held in 1996 but he could not qualify the written test. It is also an admitted fact that within six months of declaration of result of that examination, applicant 1 has also retired from service on 30.11.1996. The impugned dereservation order passed by the competent authority on 27.11.1996 with respect to roster point 1 in the second cycle which deals with the post falling in the SC category would, therefore, not affect applicant 1 adversely as he was to retire from service within three days of the issuance of that order and he has failed in the written test for the selection.

10. On the allegation made by applicant 1 that he ^{been} had not given any pre-selection training, it is seen from the reply of the respondents that the said training to SC/ST candidates had been imparted on job, as the syllabus of the examination covered questions from the general working of EMU and Railways. They have also stated that the applicants had been given training when they had performed their normal duties in routine work in the EMU shed. Taking into account these averments made by the respondents, we are unable to agree with the contention of applicant 1 that he had not been given the pre-selection training. In any case, applicant 1 had appeared in the selection for the post of STFO without any protest at that time and he cannot take this plea at this stage, after the results had been announced wherein it was found that he was unsuccessful in the written test.

11. The learned counsel for the applicants while assailing the dereservation of the post vide order dated 27.11.1996 has failed to bring on record any rules which

have been violated in the action taken by the competent authority.

12. As mentioned above, the averment, made by the learned counsel pertaining to applicant 1 that wrong information had been given as he was a failed candidate in the selection held in 1996, has been explained by the respondents. This applicant was to retire from service on 30.11.1996 and in the circumstances, it cannot be held that the respondents have furnished a wrong information so as to justify any interference in the matter. As already mentioned above, the OA in regard to applicants 2-4 is rejected, as there is no MA for filing a joint application.

13. In the facts and circumstances mentioned above, as nothing has been placed on record to show that the sanction of the competent authority for dereservation of the SC post in roster point 1 of 2nd cycle has been done contrary to the rules, we find no justification to interfere with the matter. The OA is accordingly fails and is dismissed. No order as to costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan)
Member (J)

rkv.