

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.992/94

New Delhi this the 7th Day of April, 1995.

Hon'ble Sh. J.P. Sharma, Member(J)
Hon'ble Sh. B.K. Singh, Member(A)

1. Sh. Karan Singh Krar,
S/o Sh. Chhotu Ram,
R/o Vill.&P.O. Ladravan,
Distt.Rohtak,Haryana.
2. Sh. B.K. Khanna,
S/o late Sh. Jagat Ram Khanna,
R/o A-170, Nehru Vihar,
Delhi-54.
3. Miss. Adarsh Sharma,
D/o Sh. K.N. Sharma,
R/o L-416, Rishi Nagar,
Delhi-34.

Applicants

(through Sh. M.L. Sharma, advocate)

versus

1. Union of India,
through the General Manager,
Northern Railway,HQ.Baroda House,
New Delhi.
2. Chief Commercial Manager,
Northern Railway,
Baroda House,
New Delhi.
3. Chief Personnel Officer,
Northern Railway,
Baroda House,
New Delhi.

Respondents

(through Sh. H.K. Gangwani, advocate with Sh.Ramesh
Chander, departmental representative)

ORDER(ORAL)

delivered by Hon'ble Sh. J.P. Sharma, Member(J)

The applicants are aggrieved by the non-selection by the respondents to the post of Office Superintendent and they have jointly challenged the selection declared by the A.P.O. Headquarter, Baroda House, New Delhi dated 06.05.1994.

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The relief prayed by the applicants is that the application be allowed and the aforesaid selection declared on 06.05.1994 be quashed and other reliefs prayed be granted. (9)

On notice the respondents contested the application and filed the reply stating that the selection was held after constituting the Selection Board under paras 217, 218 and 219 of the Railway Establishment Manual Volume 1. The applicant has also filed rejoinder reiterating the points already taken in the original application.

We have heard the learned counsel for the applicants yesterday and as the learned counsel for the respondents was not available, we adjourned the case for hearing for today. Today we also heard the learned counsel for the applicants as well as Sh. H.K. Gangwani, learned counsel for the respondents who has placed before us the record of the Selection Board. We have perused the same.

The first contention advanced by the learned counsel for the applicants is that the constitution of the Selection Board was not according to the circulars of the Railway Board. The learned counsel has taken us to the master circular issued by the Railway Board Serial No.31. The contention of the applicants counsel is that in the Selection Board there was an omission of non-inclusion of a member who should have been of SC category. By this the learned counsel hammered that one of the SC candidates who is applicant No.1 has not been

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properly and fairly evaluated in the written examination. Here it may be stated that applicant No.1 who is SC could not qualify in interview having not obtained the requisite qualifying marks in the written test. The other two candidates Sh. B.K. Khanna & Miss Adarsh Sharma qualified in the written test but could not be empanelled in the said selection. The respondents have advertised 7 posts of Office Supdt. Grade-II declaring that none of the posts is reserved and all the posts are of other category than reserved. We, therefore, find that the respondents who have taken a member of the minority committee in the Selection Board have not committed any illegality by not co-opting a member of SC/ST category. It is irregularity of course, but the irregularity by itself will not invalidate the selection or the process of selection. It is to be seen whether any of the applicants have been prejudiced and that the selection has not been fair. If the applicants have any genuine grudge on that account immediately after the written test they could have made a representation in that regard. Awaiting the result of the selection, declaring of the panel, and being declared failure would not give credibility to their averment that the Selection Board was not regular as well as under the master Circular No.31. The learned counsel also argued that when there is a Selection Board and if all the members are other than of SC category there is breach in not including S.C. member as one usually sets the paper and the other may be given the work of examining the answer books which are written by the candidates on the supplied question paper.

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We have gone through the master circular itself and read alongwith the learned counsel for the applicants and we do not find any such provision in black and white. It is only an inference. The Selection Board is to be constituted of 3 Members and if the contention of the learned counsel for the applicants is accepted even then we are unable to find out any substance in this contention. This point, therefore, has no merit.

The learned counsel has taken us to the point that by the circular of the Railway Board dt. 14.1.1982 Annexure A-7, it was required that 10 marks should be reserved for professional question on the official language rules. We have gone through the circular and we find that no irregularity has been committed in the selection of the candidates. The learned counsel for the respondents placed before us that for 10 marks there was a translation from hindi to english. In any case the applicants belonging to hindi speaking area and there is in any case no prejudice caused if there has been any omission on that account in setting a paper of official language Rule for 10 marks. No precedent has been cited nor referred to in the original application about the practice of setting papers in the examination for the test of Office Supdt. Grade-II earlier. In view of this, this point has no basis.

The learned counsel for the applicants further pointed out that there should have been a procedure adopted for keeping the record of the examination confidential so far as the examination answer

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books are concerned. The Railway has provided a method by which the codification is done. We have seen the departmental file and we find that this instruction has been fully complied with. In the marks of written chart, code 19 has been given to the applicant No.1, code 20 to applicant No.2 and code 21 to applicant No.3 has been given. The grievance of the applicants is that this job was done by group-C or group-D and there was not much secrecy and in any case the applicants could not succeed. The trend of marking answer books of marks obtained, those who are declared in the panel we do not find any excessive marking. The range of marking out of 35 is from 21 to 25. Sometimes administrative actions have to be carried out and in doing so much adherence to the written guidelines is not strictly adhered. If the administration is faulting in one respect though maintained secrecy of the examination books those who are empanelled in this selection should not be put to any disadvantage. The administration has to utilize the best machinery and follow the rules. However, if there is any deviation from the rules, if his prejudice or partiality is shown then who have been declared successful cannot be put to a loss at the instance of those who have failed. Thus, this contention of the learned counsel for the applicants has no weight.

Alongwith the learned counsel for the applicants we have gone through the marks obtained by all the candidates in written test. We have also seen the marks obtained by applicants No.1, 2 & 3. If they were called for interview, in seniority record of service, personality etc. and personal ability, the maximum marks

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for these are 15 for the seniority, 15 for record of service & 20 for the personality. Under the instructions of the Railway Board which are not disputed by the learned counsel for the applicants in order to qualify a candidate has to obtain atleast 60 marks i.e. 30 out of 50 in the professional ability i.e. in the written test, and in the interview we find that applicant No.1 could not be called for interview as he could not obtain the requisite number of marks in the professional ability. As regards applicants No.2 & 3, we find that applicant No.2 got 21.7 out of 35, 8 marks out of 15 in the total 29.7 which is less than 30. Similarly applicant No.3 got 21 marks in the written and 7 marks in the oral which total 28 & which is also less than 30. However, applicant No.1 got 12 marks in seniority, 9 marks in record of service and 12 marks in personality i.e. 33 marks in total, and applicant No.2 got in seniority 8 marks, 12 marks in personality and 11 marks totally 31. Out of 50, they got 30 marks alright but in the profession ability both of them are getting less than 30 marks out of 50.

Considering all these facts and circumstances we do not find any substance in the application and cannot interfere in the procedure of selection or in the panel declared by the respondents by the order dt. 6.5.94. The application is, therefore, dismissed as devoid of merit.

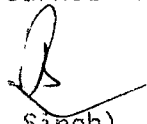
No costs.

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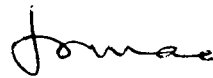
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The record produced before us is returned to the learned counsel for the respondents.



(B.K. Singh)

Member(A)



(J.P. Sharma)

Member(J)

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