

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.2143/2000

This the 20th day of November, 2001.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

1. R.N.Srivastava S/O Mahavir Prasad, working as Booking Supervisor, Northern Railway, Railway Station, New Delhi.
2. Shiv Dutt Sharma S/O Kaniyalal Sharma, working as Booking Supervisor, R/O MIG House No.106, H-18, Sector-7, Rohini, Delhi. ... Applicants

( By Shri S.K.Sawhney, Advocate )

-versus-

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Chelmsford Road, New Delhi.
3. Jagdish Kumar S/O Prabhu Dayal, Booking Supervisor, Northern Railway, Delhi.
4. Ramphal S/O Chandan Singh, Booking Supervisor, Northern Railway, Rohtak.
5. Om Prakash S/O Dhan Singh, Booking Supervisor, Northern Railway, Delhi.
6. Rajinder Singh S/O Ram Swarup, Booking Supervisor, Northern Railway, Railway Station, Delhi Main, Delhi.
7. Deep Chand S/O Poopi Ram, Booking Supervisor, Northern Railway, Railway Station, New Delhi.
8. Chatter Pal Singh S/O Ram Swaroop, Booking Supervisor, Northern Railway, Delhi. ... Respondents

( By Shri R.P.Agarwal, Advocate )

## O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

The applicants are Booking Supervisors and are shown at sl. nos. 8 and 9 of the provisional seniority list of Booking Supervisors (Annexure A-7). The next promotion of Booking Supervisors is to the post of Chief Booking Supervisor (scale Rs.6500-10500). The respondents undertook the process of selection for 23 posts of Chief Booking Supervisors vide Annexure A-2 dated 27.2.1998. The applicants qualified in the written test but the same was cancelled vide Annexure A-3 dated 5.10.1999. The selection was undertaken de novo vide Annexure A-4 dated 30.12.1999. The applicants have challenged the selection made in pursuance of Annexure A-4.

2. The learned counsel of the applicants contended that the cadre of Chief Booking Supervisors contains a total of 34 posts out of which 7 posts were held by SCs and 8 by STs. Thus, the reserved category employees were already holding posts in excess of the prescribed percentage for reservation. The learned counsel stated that as per the ratio in the case of Ajit Singh v. Union of India, 1996 (1) SCSLJ 424, when a general category candidate is promoted later from the lower grade to the higher grade he has to be considered senior to an SC/ST candidate who had been given accelerated promotion against the post reserved for him. Whenever promotion to a still higher grade has to be considered against a general post, then the general category candidate who has been promoted later, has to be

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considered senior and shall be considered first for promotion, applying either the principle of seniority-cum-merit or merit-cum-seniority. The learned counsel stated that without recasting the seniority of the applicants as per the ratio in the matter of Ajit Singh (supra), the respondents have selected the private respondents (SC) in preference to the applicants (general). The learned counsel also stated that as per the ratio of reservation, the number of SC candidates holding the posts of Chief Booking Supervisor could not be more than five. However, the respondents have gone ahead and selected six more SC candidates on the post of Chief Booking Supervisor from the said selection.

3. The learned counsel of the respondents stated that the applicants appeared in the selection held on 22.1.2000 and 29.1.2000. They qualified in the written test but did not obtain the requisite percentage of marks in the viva voce test. Thus, they were not considered for empanelment to the post of Chief Booking Supervisor. The learned counsel further stated that although no post was reserved for SC/ST among the 23 posts of Chief Booking Supervisors for which selection was held, four additional anticipated vacancies of Chief Booking Supervisors belonging to SC category employees who were to retire during the currency of the panel, were taken into account in the selection. As such, whereas six SC employees were empanelled for the post of Chief Booking Supervisor in accordance with their general seniority treating them as general candidates, the remaining four SC candidates were placed on the panel against four

anticipated vacancies of SC incumbents. In the written test, 30 persons were declared passed including the applicants who were declared passed on the basis of their notional seniority marks. In the viva voce test they were required to obtain 60% marks in professional ability in aggregate which the applicants could not get and as such they were not placed in the panel. The learned counsel also contended that the applicants having not made the grade in merit, no prejudice has been caused to them by the selection of private respondents.

4. As per Annexure R-1 which are instructions in pursuance of courts judgments/orders relating to promotion of SCs/STs against reserved vacancies, anticipated vacancies are reckoned on the basis of cut off date decided by administration for the anticipated period. Although no such decision of the administration has been shown to us, the cut off date for anticipated vacancies can be one year from the date when Annexure A-4 was issued. From Annexure A-8 which is the provisional seniority list of Chief Booking Supervisors, we find that there were three anticipated vacancies falling on account of anticipated retirement of SC incumbents within the cut off date. Thus, three, if not four, anticipated vacancies were definitely there for which SC candidates could have been considered for selection. They could also be considered for selection against the general vacancies in terms of their general seniority and merit in selection.

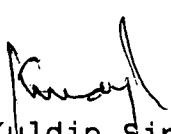
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5. We have perused the record of selection produced by the respondents. We find therefrom that whereas the applicants have failed in the viva voce test and in aggregate, six SC candidates were empanelled on the basis of their general seniority and merit. Four SC candidates have been selected against the anticipated vacancies on retirement of SC incumbents on the basis of cut off date. From Annexure A-7 we find that one Shri J.P.Verma (SC) who is senior to the applicants in the seniority list of Booking Supervisors, was not selected. The applicants are senior to all other SC candidates who were empanelled. The case of the applicants that the respondents were supposed to recast the seniority list in the light of the ratio of the case of Ajit Singh (supra) allocating higher position to the candidates of general category who were promoted later than the reserved category candidates who had been given accelerated promotion, is misconceived. There is only one SC candidate, namely, Shri J.P.Verma, who is shown senior to the applicants but he was not empanelled. The other SC candidates are lower in seniority of Booking Supervisors than the applicants. The question of recasting the seniority list and allocating higher position to the applicants than the SC candidates does not arise at all as the applicants are already holding senior positions to the SC candidates.

6. Alghouth as per the percentage of reservation, only five posts can be earmarked for SC as per the permissible 15% reservation for SC, the applicants have not established that the excess of SC candidates in the

cadre of Chief Booking Supervisors vis-a-vis the prescribed percentage of reservation has not been on the basis of the general seniority and merit of the SC candidates. Similarly, when it is ascertained from the records relating to the selection in question that six SC employees were empanelled as Chief Booking Supervisors on the basis of their general seniority and merit it cannot be held that they would consume the vacancies belonging to SC category. The respondents are within their competence to have selected SC employees as per their general seniority and general merit. Although in addition the respondents could have selected three SC candidates against the anticipated vacancies meant for SC, selection of four SC candidates against four anticipated vacancies has not prejudiced the applicants in any manner, as they have not been able to obtain the requisite percentage in the professional ability and other items of the test.

7. Having regard to the above discussion, we do not find any infirmity in the selection for the post of Chief Booking Supervisors which is impugned in this OA. Accordingly, this OA is dismissed. No costs.

  
( Kuldip Singh )  
Member (J)

  
( V. K. Majotra )  
Member (A)

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