

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 925/2000  
MA 740/2001

New Delhi, this the 26th day of April, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Brajendra Singh  
S/o Shri Laxman Singh  
R/o H.No. 20, Railway Colony  
Narela, Delhi - 110040.

(By Advocate Shri Z.A.Khan)

V E R S U S

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
DRM Office  
New Delhi.
3. The D.S.E.-I  
DRM Office  
New Delhi.
4. The Divisional Personnel Officer  
DRM Office  
New Delhi.

...Respondents.

(By Advocate Shri R.P.Aggarwal)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

In this application, the applicant has challenged the action taken by the respondents in not placing his name in the Select Panel for the post of Permanent Way Supervisor (for short PWS) in the grade of Rs. 4500-7000, which was declared by them vide their letter dated 10-11-1998.

2. The brief relevant facts of the case are that the applicant, who is working as Gangman with the respondents had been called for appearing in the

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selection/written test held by the respondents on 1-8-1998. Out of 141 candidates who appeared in the written test, 12 candidates were declared successful for viva-voce test, which was held on 12-10-1998 and the applicant was one of them. According to the respondents, his name did not find place in the Select panel for PWS because he did not get the qualifying marks for the test. Shri R.P. Aggarwal, learned counsel for the respondents has produced the official records of the selection in question.

3. The respondents have issued the aforesaid Select list dated 10-11-1998 showing the names of nine persons who have been declared successful in the written test as well as the viva-voce test, in which the applicant's name does not figure. The applicant has submitted that he had given a representation against his non-selection to the respondents which they have rejected. Hence this OA.

4. In this application, the applicant has submitted that only 9 candidates have been placed in the final Select list whereas the Viva-Voce test was conducted for 10 posts of PWSs. This has been explained by the learned counsel for the respondents, who has submitted that as one post was reserved for a ST candidate and none had qualified in that category, that post has been left out.

5. Learned counsel for the applicant had also submitted that two candidates belonging to SC category have been placed in the Select list, whereas only one post was reserved for them. This has been clarified

by the respondents who have stated that in fact both the candidates belonging to the SC category had qualified on their merit. The contention of the learned counsel for the applicant on this ground, therefore, fails and is rejected.

6. The applicant has contended that the final Select list has been prepared in an illegal manner and is perverse and contrary to law and facts. Shri Z.A.Khan, learned counsel for the applicant has submitted that as the applicant was one amongst the three candidates who had passed the written test marks, he could not have obtained the lowest marks of 6 in the Viva-Voce test, which shows malafide. We are unable to agree with this contention also because not only the applicant, but one other candidate has also received the same number of marks in the Viva Voce test. Learned counsel for the applicant has relied on the judgement of the Tribunal in Mrs. Pooja Rawail Vs. UOI & Ors. (OA 2050/95) decided on 12-1-2000, copy placed on record.

7. In the present case, we note that not only the applicant but also one Shri Mahender Singh has been given 6 marks in the Viva-Voce test by the Selection Committee. We also do not find the marks awarded to the applicant for seniority or record of service either arbitrary or unreasonable. It was particularly contended by Shri Z.A.Khan, learned counsel for the applicant, that he had put in more than 23 years of service but had not been given the correct seniority marks. This is not borne out by the records because while the applicant has been given

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7.37 marks in seniority, the person just above him, Shri Radhey Shyam whose date of appointment is shown as 25-8-1982, has been given 8.46 marks. It is also relevant to note that Shri Chander Pal who is shown one place below the applicant and whose date of appointment is shown as 17-4-1987, has been given 6.28 marks in seniority. Taking into account these facts, we are, therefore, unable to agree with the contentions of the learned counsel for the applicant that the marks awarded by the Selection Committee are either arbitrary or perverse to justify any interference in the matter. The respondents have pointed out that the applicant has not obtained the minimum cut off marks of aggregate of 60 % in the written and Vive-Voce tests and the last person who has been appointed is shown to have obtained 61.64 % as against the applicant who has got only 56.82 %.

8. We have carefully considered the judgement of the Tribunal in Mrs. Pooja Rawail's case (supra), but as seen from the records in the present case, those facts are not applicable to the facts or situation in the present case, to warrant a direction to the respondents to constitute a review DPC. The allegation of malafide made by the learned counsel for the applicant is also not proved by any documents on record. From the records, it is not possible to say that the marks awarded to the applicant on seniority has not been correctly done. For marks awarded for record of service, we find that, except for one

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candidate, the Selection Committee has awarded 9 marks to all, including the applicant.

9. In the result, as none of the grounds submitted by the applicant are made out in the present case, we find no justification to interfere in the matter. The OA accordingly fails and is dismissed.

No order as to costs.

(Govindan S. Tampi)  
Member (A)

(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)

/vikas/