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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 3081/2004

New Delhi this the 10th day of October, 2007

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN (J)
HON'BLE MRS. NEENA RANJAN, MEMBER (A)

1. Shri Ashok Kumar Shukla,
Working as Junior Engineer,
North Central Railway, Allahabad.
2. Shri Mukesh Kumar Sharma,
Working as Junior Engineer,
N.Railway, Kishanganj, New Delhi.
3. Shri Karan Kapoor,
Working as Junior Engineer, I/PW
Northern Railway, Delhi Division,
New Delhi.
4. Shri Narinder K. Deswal,
Working as Junior Engineer, I/PW
Northern Railway, Delhi Division,
New Delhi.
5. Shri Gopal S. Navkalkha,
Working as Junior Engineer, I/PW
Northern Railway, Delhi Division,
New Delhi.
6. Shri Narinder Kumar,
Working as Junior Engineer, I/PW
Northern Railway, Delhi Division,
New Delhi.
7. Shri Ranvir Singh Dhull,
Working as Section Engineer,
Head Quarter, Northern Railway,
New Delhi.
8. Shri M. P. Singh,
Working as Section Engineer,
Northern Railway, Ambala,
9. Shri Arvinder Kumar,
Working as Section Engineer,
Northern Railway, Ambala.
10. Shri Shiv Kumar,
Working as Junior Engineer,
Northern Railway Construction Department,
Kashmeregate, Delhi.

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11. Shri S.B. Manchanda,
Working as Section Engineer,
Northern Railway, Panipat.

12. Shri Kanwar Pal Singh,
Working as Junior Engineer,
N. Railway, Kishanganj,
New Delhi.

.. Applicants

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Railway,
Railway Board, Rail Bhawan,
New Delhi.

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

3. Shri M.K. Pandey,
JE/W/LKO.

4. Shri Rajnesh Kumar,
JE/W/ND.

5. Shri Praveen Kumar,
SSE/W/Rly. Board.

(Respondents No. 3 to 5 are c/o the General
Manager, Northern Railway, Baroda House,
New Delhi)

.. Respondents

(By Advocates Shri V.S.R.Krishna for respondents No. 1& 2
and Shri B.S. Mainee, for respondents No. 4 and 5)

O R D E R

Hon'ble Mr. Justice M. Ramachandran, Vice Chairman (J).

Selection carried out by the respondents to the posts of Assistant Engineer (Gazetted Group 'B'), in the year 2004, is subjected to challenge by the applicants, who are Junior Engineers, Section Engineers and Senior Section Engineers in the Northern Railways. The relevant rules provide for selection, in 70% promotion quota and 30% Limited Departmental Competitive Examination. Proceedings in this regard had been initiated in the year 2003 for the vacancies pertaining

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to the years 2002, 2003, 2004 and 2005. It had been notified that against the 30% LDCE quota, 39 posts were available.

2. In the application, reference is made to the written test held on 18.10.2003 to the 70% quota consisting of 92 posts. Challenging the selection, it is submitted that O.A. 18/2003 had been filed and the selection was quashed vide order dated 29.07.2004. It was in the said lines that the written test held for 30% quota, on 29.5.2004 had been challenged in O.A.2166/2004. The case had been disposed of with certain directions, and it was at that time made known that a review application had been filed against the order. Results of the examination had been declared on 07.10.2004 but the applicants had not been included among the select list. Original Application is filed, therefore, challenging the proceedings, which led to such selection.

3. Mr. Yogesh Sharma, counsel appearing on behalf of the applicants presses only one point which was the principal ground taken in the application. Submission was that selection procedure as authorized by the Indian Railway Establishment Manual had been violated. The further submission was that rules itself were unfair, in that the totality of the merit were not duly taken notice of, and the claims of the applicants had been rejected at the threshold. Referring to Annexure A-1 being the extract of the Manual, it is submitted that qualifying marks had been prescribed for professional ability, written test and viva voce, record of service and the like. It was urged that the prescription of separate minimum marks, for viva voce, was unwarranted, as it would have been possible for rejecting candidature of a person, who was otherwise qualified and scored better marks in written test. Otherwise a person will be weeded out if he had not scored the minimum marks in

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the viva voce and a person situated far below in written examination would have secured a selection. The allegation is that this situation had happened, and their merit had been overlooked.

4. But, however, on the showing of the applicants themselves, the above position has not been followed. By Railway Board's letter dated 20.8.1991 (Annexure A-7), maximum marks are prescribed and there is only provision for qualifying marks and no separate minimum marks. In other words, there is no minimum marks prescribed for viva voce but there is only necessity for minimum marks in the records of service. In the aforesaid background, we do not think, the applicants can urge grievance successfully, as the selection process cannot be considered as held arbitrarily. In the circumstances, Original Application is dismissed. No costs.



(Mrs. Neena Ranjan)
Member (A)



(M. Ramachandran)
Vice Chairman (J)

'SRD'