

Central Administrative Tribunal
Principal Bench, New Delhi

OA No. 2313/92

8

New Delhi, this the **5th** day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri N. Sahu, Member (A)

1. J.P. Sharma, Head Clerk, constn. Office, Northern Railway, Delhi.
2. M.L. Verma, Head Clerk, E.VI.W. Headquarters, Northern Railway, Baroda House, New Delhi.
3. V.K. Sharma, Head Clerk, Pass Section, HQ, Northern Railway, Baroda House, New Delhi.
4. Gladwin Singh, Head Clerk, EIB-EIC, HQ, Northern Railway, Baroda House, New Delhi.
5. Smt. Manorama Sharma, Head Clerk, E.IV, Head Clerk, HQ., Northern Railway, Baroda House, New Delhi.
6. W.A. Khan, Head Clerk, Constrn. office, Northern Railway Kashimre Gate, Delhi.
7. K.K. Vij, Head Clerk, EIA, HQ, Northern Railway, Baroda House, New Delhi.Applicants

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager (P)
Northern Railway, New Delhi.
2. The Chief Administrative Officer (Constrn)
Northern Railway, New Delhi.
3. The Chief Adminstrative Officer (P)
COFMOW, New Delhi.
4. The Deputy Chief Personnel Officer (HQ)
Northern Railway, New Delhi. ... Respondents

(By Advocate: None present)

O R D E R

Dr. Jose P. Verghese, Vice-Chairman (J)--

22

The seven petitioners were holding the post of Head Clerk in the Scale of Rs. 1400-2300 and according to them they were eligible to be considered to the post of Assistant Superintendent in the scale of Rs. 1600-2660 (RPS). By a letter dated 12.5.1992, the departmental examination was held for promotion to the post of Assistant Superintendent from amongst the eligible candidates. All the petitioners appeared in the said test as they were included in the eligibility list of 47 candidates as per the seniority.

2. According to the petitioner even though the post is to be filled up by way of selection, the method of selection prescribed under the rules are 50 marks for written examination, 15 marks for seniority and service record and 20 marks for personality/viva-voce. According to the rules 30 marks are the minimum required for written test of the examination/professional ability and 30 out of the remaining 50 was the minimum required for eligibility for consideration for inclusion in the select panel. It was also stated that once a candidate obtained 60 (30 + 30) marks in all, thereafter the select list is not drawn up in accordance with the marks obtained which may be higher than 60, rather it would be on the basis of seniority from amongst the candidates who had obtained 60 and above in the entire selection procedure.

3. It was also stated that total 15 marks awarded for seniority in the scale of 1400-2300 for all the candidates in the order of seniority. So too for the

-3-

service record, 5 marks are awarded for excellent, 4 for 'Very Good' and 3 for 'good' for each of the three years and the total marks out of 15 is added to be total marks. 10

4. It was further stated by the counsel for the petitioner that in case a candidate does not obtain the minimum 30 marks in either of the category and if the candidates are found not to have obtained 30 marks in the written/professional ability, the Railway Board has relaxed the maximum to the extent of additional marks obtained by each candidate in their seniority quota as ~~1~~ notional marks, which may amount to be a double benefit on account of seniority.

5. The respondents accordingly passed an order on 22.7.1992 stating that 29 candidates including all the petitioners were otherwise ineligible on the basis of total marks as well as the minimum required, obtained in their written test/professional ability, are being considered eligible for ~~viva~~-voce after adding the second notional marks available to them on the seniority quota as a secondary benefit. But when the petitioners proceeded to appear in the ~~viva~~-voce test, the respondents had refused to entertain them vide letter dated 2.9.1992 stating that the petitioners have not secured minimum required 30 marks even after adding 15 marks for notional seniority and the order passed by the respondent on 2.9.1992 is a mistake and the respondents are entitled to correct their mistake at any time.

6. The respondents, on the other hand, have not stated what exactly is the nature of the mistake and have not also disclosed what was the actual marks the petitioner

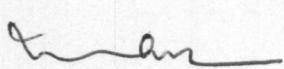
-4-

11

had obtained out of the 50 marks in each category. In the absence of this, we are not able to arrive at any conclusion whether the reasons stated in their order dated 2.9.1992 viz., the inclusion of 30 marks pertains to the second benefit on the basis of seniority or not.

7. Since none appears on behalf of the respondents, the only order that could be passed by this court at present is that the respondents be directed to pass an appropriate order within four weeks from the date of the receipt of a copy of this order whether the inclusion of 30 marks pertains to second benefit on the basis of seniority or not and communicate the same to the petitioner alongwith the documentary proof. In the absence of the same i.e. no order passed and communicated alongwith the documentary proof to the petitioner, this petition will stand allowed subject to the above concession granted to the respondents. Since this petition has been pending in this court since 1992 and none appear on behalf of the respondents, we are left with no option but to pass the present order and at the same time to give one more opportunity as stated above. In the event of non-compliance of the directions given above to the respondents, the impugned order dated 2.9.1992 will remain quashed vis-a-vis the petitioner and the petitioner will be entitled to all benefits.

8. With this, this OA is disposed of with no order as to costs.



(N. Sahu)
Member(A)
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(Dr. Jose P. Verghese)
Vice Chairman (J)