

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Dated: Allahabad this the 27th Day of April 2000.

Coram: Hon'ble Mr. S. Dayal, Member (A.)

Hon'ble Mr. Rafiquddin, Member (J.)

Original Application No.243 of 1996

Baldeo Ram

S/O Shri Barsati

R/O Vill. Dharna, P.O. Mughalsarai, Distt. Varanasi.

... Applicant


Counsel for the applicant= Sri Y. Mohd.

Versus

1. Union of India through the Secretary, Railways,
Government of India, New Delhi.
2. Senior Divisional Personnel Officer, Eastern
Railway, Mughalsarai, District Varanasi.
3. Competent Authority (Senior D.S.T.E.), Eastern
Railway, Mughalsarai, Distt. Varanasi.
4. Smt. Sushilasay Murga.
5. Smt. Bisto Purty.

Both Telephone Operators Tele-Communication
Inspector's Office, Eastern Railway, P.O.
Mughalsarai Distt. Varanasi.

... Respondent

 Counsel for the respondent= Sri A. Sthalekar

ORDER

(By: Hon'ble Mr. S. Dayal, Member (A.))

This application is being filed for direction to the respondents to consider the applicant's name for appointment for as Telephone Operator against unreserved vacancies by cancelling appointment of 2 ST candidates.

2. The facts as given by the applicant are that applications were invited by the respondents from Khalasi's in the scale of Rs. 800 to 1150 and Khalasi's in the scale of Rs. 750-940 working in Tele-Communication Department who were matriculates and had completed 3 years regular service in 1995 to fill up 5 posts of Telephone Operators from amongst general candidates and one post from Schedule Caste candidates. Some 14 candidates were allowed to appear at the examination on 1/4/95. Five candidates including the applicant were declared successful in the written examination. The applicant claims that the seniority list was changed in the letter dated 10/7/95 putting the applicant in second place instead of keeping him in first place as in enclosure No. 3 to the O.A. The competent authority by letter dated 1/2/96 approved the names of the only 4 candidates and the name of the applicant was not included in these 4 candidates. It is mentioned that out of 4 posts to be filled up by general candidates, two were filled up by Schedule Tribes candidates for whom there was no reservation in this selection.

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3. The arguments of Sri Y. Mohd. for the applicant and Sri A. Sthalekar for the respondent have been heard. The pleadings on record have been taken into consideration.

4. In response to the contentions of the applicant the respondents have stated that all the candidates who obtained qualifying marks in the written examination had to be shown in the list of successful candidates in the written examination. The order in which their names had to be shown was to be based on seniority position. However, by our mistake this was not done in letter dated 31/5/95 and was subsequently corrected by letter dated 10/7/95. The respondents have further mentioned that the applicant could not obtain qualifying marks for empanelment for the said post, although he had obtained qualifying marks in the written test.

5. The learned counsel for the applicant had contended that since the applicant was placed at No. 1 after the written test, he had obtained more than 60% marks in the written. As far as the viva-voce is concerned the marks were to be given for professional ability, personality, address, leadership and academic and technical qualifications and of service on seniority. For the last 3 categories, the division of marks was 20, 15 and 15 respectively. Those obtaining 60% of total marks prescribed for written examination and for seniority were to be called for viva-voce test.

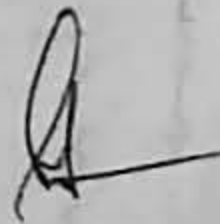
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The learned counsel for the applicant contends that the applicant could not have secured less than the marks required for being placed on the penal in view of his performance in the written, his position in seniority and his record of service. We had considered the arguments of learned counsel for the applicant and had directed the respondents to place ~~the~~ ^{record containing} ~~the~~ ^{contending} marks obtained by the applicant and respondents No. 4 and 5 in the written test as well as in the 3 different sections of the viva-voce. It has not been possible for the respondents to produce the said record at the time of hearing.

6. We therefore direct the respondents No. 1, ^{and 2} ~~to~~ obtain ~~to~~ personally verify the marks obtained by various candidates in the written as well as three different sections of viva-voce and furnish the same to the applicant. In case respondents No. 4 or 5 have received less marks than the applicant, the applicant should be given appointment as Telephone Operator in place of the respondent getting less marks than the applicant. This shall be complied within three months from the date of receipt of a copy of this order from the applicant.

Rafimadu
J.M.


A.M.

/T. Joshi/