

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 20th day of October, 2003.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 875 of 1996

1. Braj Narain Singh S/O Late Sri Bhimal Singh R/O Dhampur, Gitavatika, Gorakhpur.
2. Virendra Shanker Rai S/O Late Shri Narshing Rai R/O Shive Nagar Colony, Harahawa Phatak, Gorakhpur.
3. Ram Murat Yadav S/O Late Sri Shiv Harakh Yadav R/O Vill. Shihapar, Post Sahjanawa District Gorakhpur.
4. Anjani Kumar Pandey S/O Sri Bhagauti Prasad Pandey R/O Purana Gorakhpur, Gorakhnath, Gorakhpur.
5. Sheo Shankar Prasad
6. Umanath Chaturvedi
7. Ram Singh
8. Ram Brat Lal
9. Swaminath
10. Alok Kumar Misra
11. Anil Kumar Sharma.
12. Shyam Baran
13. Bijai Kumar Misra
14. Ram Chandra
15. Ram Prasad
16. Sanjai
17. Hari Shanker Prasad
18. Ram Saran
19. Ram Nageena Yadav
20. Prakash Yadav
21. Yogendra Singh
22. M.K. Dutta
23. Ram Harkh Yadav
24. Zalaluddin.

All working under Deputy Controller of Stores Depot,

N.E. Railway, Gorakhpur.....

.....Applicants.

Versus

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1. Union of India through General Manager, N.E. Railway,
Gorakhpur .
 2. Deputy Controller of Stores, Depot N.E. Railway,
Gorakhpur..... Respondents.
- Counsel for respondents : Sri S.K. Anwar.

O R D E R

BY HON. MR. D. R. TIWARI, A.M.

By this O.A. filed under section 19 of A.T. Act, 1985, applicants have prayed for issue a direction to the respondents to take fresh interview test from all candidates who were successful in the written test for which result was declared on 2.2.1996 (Annexure A-1) and if the applicants may be found fit, they may be selected for the post of Junior Clerks in the scale of Rs.950-1500/-. They have further prayed for a direction to set aside result dated 8.3.1996.

2. The facts of the case, in brief, are that the applicants were working as grade 'D' staff under the Stores Depot of North Eastern Railway, Gorakhpur. A notification was issued by C.O.S.(D), Gorakhpur vide letter No.E/219/Class/GKP/11 dated 9.3.94 for filling up the post of Junior Clerks by promotion from the group 'D' staff, against the departmental quota of 33 1/3%. In all 119 persons were called to appear in the written test but only 93 persons turned up and out of those 93 persons, only 49 persons were declared successful in the written test on 2.2.96 (Annexure A-2). The applicants have stated that no marks of the seniority had been assigned to them which has resulted in their non-selection. They have claimed that the Railway Boards by its letter dated 23.12.79 has clearly stated that marks should be allotted on the basis of different heads such as personality, leadership etc. (Annexure A-4). They have further stated that they had represented against the selection process to the General

Defence

Manager on 15.3.96 which has not yet been replied to (Annexure A-5).

3. The contention of the applicants have been very forcefully denied by the respondents by filing written reply. They have stated that as per the existing rules for promotion and selection of non-gazetted Railway employees, total marks of the written test will be 50 i.e. 25 for part A and 25 for part B and thus, who secured 50% in each part in the written test, will be called for viva-voce test. In the case of SC/ST candidates, those who secure 40% marks in each part will be eligible for viva-voce test. Distribution of marks will be as under :-

Written test	50	
Viva Voce	20	
Personality	}	15
leadership &		
Record of Service)		
Seniority	15	

Those who obtain 50% marks in the written test and viva-voce combined as well as in the aggregate, will be considered to have qualified and they will be placed on panel in the order of seniority. In the case of SC/ST candidates, those who secure 40% marks in the written test and viva-voce combined as well as in the aggregate, will be deemed to have qualified and they will be placed in the panel in the order of seniority.

The said selection was conducted as per extant rules. Persons who did not secure 50% marks in the written test and viva voce as well as aggregate, were declared unsuccessful as per extant rules. The copy of the extant of said Rule is Annexed no.R-1.

As per existing instruction senior most staff will be given 15 marks and junior most will get 5 marks, in the said selection the seniority marks were given to the

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candidates as per rules. It is not true that seniority marks were not given to the applicants. As the applicants were not getting the 50% marks in the written as well as viva-voce combined, so they were not declared successful.

5. We have heard Sri B. Tiwari, learned counsel for applicant and Sri S.K. Anwar, learned counsel for respondents and perused the records.

6. During the course of argument Sri B. Tiwari, learned counsel for applicant emphasised the fact that the applicants were not awarded the marks for seniority. It is because of this that junior persons were selected and the applicants could not be declared successful. Sri Anwar also submitted before us the original records of the selection proceedings for perusal and better appreciation of the case. The original records were perused and the marks obtained by the applicants are as under :-

<u>SL.NO.</u>	<u>NAME</u>	<u>WRITTEN</u>	<u>SENIORITY</u>	<u>TOTAL</u>
1.	B.N. Singh	13 + 14.5	14	53.5
2.	Birender Shanker Rai	12.5 + 12.5	12	51
3.	A.K. Pandey	12.5 + 12.5	11	50
4.	Ram Murat Yadav	12.5 + 14.5	10	53
5.	Jamaluddin	17.5 + 13	11	57.5

From the above it is clear that the applicants were awarded marks against the seniority and the contention of the learned counsel for applicant appears to be misconceived. The argument of learned counsel for applicants that the contents of the Railway Board's letter No.E(NG)1-79 PMI/320 dated 20.12.79 were not taken into account during the selection process ^{is not correct}. It may be stated that vide para 10 of the written reply, the respondents have clearly stated that the said Railway Board letter has already been revoked vide Railway Board's letter No.E(NC)-I/91 PMI/34 dated 1.5.92 (Annexure R-2). The question of taking into account the contents of the Railway

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Board instructions, quoted earlier, does not arise. The contention of the applicants that their representation to the General Manager, N.E. Railway ^{has not been decided,} is not correct as the respondents have stated that representation was made through a Member of Parliament who sent it to General Manager for consideration. The representation was considered and examined in the light of the points raised and a reply was sent to the Member of Parliament informing that there was irregularity ^{now} in the panel (Annexure R-3). ^{^ B.}

7. In view of the facts and circumstances, mentioned above, the O.A. is devoid of merit and the same does not call for interference by the Tribunal. Accordingly the O.A. is dismissed.

No order as to costs.

A.M.
A.M.

V.C.
V.C.

Asthana/