

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No.1178 of 1998

Allahabad this the 05th day of January, 2004

Hon'ble Mr. V.K. Majotra, Vice Chairman
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Devi Dass, Son of Sri Ram Bharose,
aged 57 years, Working as Goods Guard,
Central Railway, Jhansi, Resident of
80, Sagar Gate, Jhansi.

Applicant

By Advocates S/Shri G.P. Sharma, K.P. Shukla,
I.M. Kushwaha, S.K. Chaturvedi.

Versus

1. The Union of India, through the General Manager, Central Railway, Mumbai CST.
2. The Divisional Railway Manager, Central Railway, D.R.M. Office, Jhansi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. V.K. Majotra, Vice Chairman

Shri A.N. Ambasta, learned proxy counsel of Shri G.P. Sharma, the main counsel for the applicant stated that as Shri Sharma has authorized him to state that he has been ailing for a long time and, as such, written arguments filed on behalf of the applicant be taken into consideration for final disposal of the O.A. Thus, we have heard the learned counsel of the respondents, and taken into consideration the pleadings of

both the sides and written arguments filed on behalf of the applicant.

2. It has been stated on behalf of the applicant that while he was due for selection to the post of Passenger Guard Grade Rs.1350-2000 (RPS)/Rs.5000-8000 (RP), the D.R.M. vide his letter dated 19.12.1997 (annexure A-1) has omitted the applicant from selection and considered applicant's junior Shri Budhu Makhole for promotion to the said post. It is further stated that while applicant has been by-passed on the ground of failure in the written examination, he should have been given concessional treatment for promotion as he is a S.C. candidate. In this regard instructions contained in Railway Board's letter dated 18.10.73 have been relied upon on behalf of the applicant. Further in the rejoinder, it has been contended that applicant was entitled for consideration in viva voce test for selection dispensing with the requirement of written test in terms of letter dated 03.06.89 (annexure A-8).

3. On the other hand learned counsel of the respondents rebutted the contentions raised on behalf of the applicant, by stating that annexure A-1, panel of selection for the post of Passenger Guard was formulated as a result of a positive act of selection i.e. after conducting a written test and viva voce test. The candidates who passed both the written and viva voce tests, were placed on the panel. The applicant failed in the written test itself. It further pointed out that as per annexure R.A.-1 concession of marks

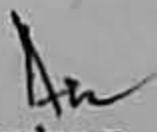
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for S.C./S.T. candidates is not available for selection to the posts where safety aspect is involved.

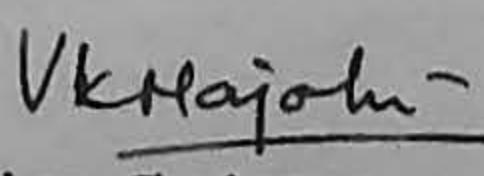
5. We have carefully considered the rival contentions.

6. Perusal of annexure A-8 dated 03.08.89, which has been relied upon by the applicant, related to dispensing with the written test for selection to the post of Passenger Guard as an one time relaxation for Jhansi Division only. We are concerned here with the selection conducted by the respondents in the year 1997. As relaxation under Annexure A-8 was one time measure available in the year 1989, its application cannot be stretched to selection held in the year 1997. While instructions dated 18.10.1973 for relaxed standard for S.C./S.T. have not been furnished on behalf of the applicant, annexure R-1 dated 13.07.1971 followed by instructions dated 12.12.73, 11.04.74 and 14.09.74 clearly state that concession of marks for S.C./S.T. candidates is available on the posts where safety aspect is not involved. The post in question is certainly the one on which safety aspect is involved and, as such, concessional treatment shall not be available even to S.C./S.T. candidates.

7. Having regard to reasons stated and discussions made above, this O.A. is liable for dismissal being devoid of merit. Dismissed accordingly. No costs.


Member (J)

/MIM./


Vice Chairman

05.01.2004