

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 10th day of AUGUST 2004.

Original Application no. 835 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Member-A

Jai Krishna Prasad, s/o late Alak Nanda Prasad
(Chief Controller working as Material Trains supervisor)
East Central Railway, Chopan, Sonebhadra.

... Applicant

By Adv : Sri A.K. Mishra

V E R S U S

1. Union of India through Chairman,
Ministry of Railways,
Baroda House,
New Delhi.
2. General Manager, East Central Railway,
Hajipur, Distt. Baishali (Bihar).
3. Chief Operation Manager, EC Rly., Hajipur.
4. General Manager (Personnel),
EC Rly, Hajipur.
5. Divisional Railway Manager, EC Rly., Dhanbad.
6. Senior Divisional Operation Manager,
EC Rly., Dhanbad.
7. Senior Divisional Personnel Officer,
EC Rly., Dhanbad.

... Respondents

By Adv : Sri K.P. Singh

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O R D E R

By Justice S.R. Singh, VC.

Heard Sri A.K. Mishra learned counsel for the applicant and Sri D.P. Singh brief holder of Sri K.P. Singh learned counsel for the respondents.

2. The applicant participated in the selection of Assistant Operation Manager (AMO) under 70% quota and on being declared successful in the written test he was asked to appear in viva-voce test. The applicant participated in the viva-voce test held on 14.6.2004. The result of the test was declared on 18.6.2004. The name of the applicant does not find place amongst the ~~declared successful candidates~~ ^{candidates} ~~candidate~~. According to result sheet there were 18 general vacancies for which 17 ^{had} ~~had~~ candidates ~~have~~ passed ⁱⁿ the written examination and now as per annexure 7 only 14 candidates have been finally selected. 04 posts are still lying vacant.

3. The submission made by the learned counsel for the applicant is that since ~~all the~~ 17 candidates appeared in the viva-voce test held for 18 vacancies all of them ought to have been declared successful ^{in order of merit}. It is submitted by the learned counsel for the applicant that the Competent Authority was not justified keeping four ~~vacancies~~ ^{posts} vacant.

4. On the other hand it has been submitted by the learned counsel for the respondents that those who could not secure the minimum qualifying marks ~~were~~ ^{were} not declared successful in the final selection.

5. Having heard learned counsel for the parties, we are of the view that in case no minimum qualifying marks were prescribed, the candidates who participated in the viva-voce

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test could be declared successful in the final selection in view of the fact that only 17 candidates ~~have~~^{had} passed the written examination against 18 general vacancies.

However, in case any qualifying marks were prescribed, ~~then &~~ ~~though~~ in that event ~~also~~ the respondents would be justified in declaring only those candidates successful whose ~~total~~^{sum} ~~obtained~~ marks was above ~~to~~ the minimum qualifying marks. This question can more appropriately be gone into by the General Manager (Personnel) in case the applicant files representation for the ~~reversion~~ of his grievance raised in this OA.

6. Accordingly, we dispose of this OA finally at the admission stage itself with direction to General Manager (P) East Central Railway, Hajipur that in case the applicant files representation for redressal of his grievance, ~~the letter would~~ ^{too} consider the representation of the applicant and pass reasoned and speaking order within a period of two months from the date of filing of this order alongwith representation.

7. With the above direction the OA is disposed of at the admission stage with no order as to costs.

D. S. Varan
Member-A

R. D. G.
Vice-Chairman

/ pc/