

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.468/2015 with MA No.93/2018

This the 24th day of September, 2021.

**Coram : Hon'ble Shri Jayesh V.Bhairavia, Member (J)
Hon'ble Dr. A.K.Dubey, Member (A)**

Shri Niranjana Kumar
Son of Shri Om Prakash Mandal
Age : 30 years
Working as Cleaner
Residing at 391/D, Railway Colony,
Double Storyed, Gandhidham,
Kutchh – 370 201. Applicant
(By Advocate : Shri M.S.Trivedi)

VERSUS

1. The General Manager
Western Railway, Churchgate,
Mumbai 400 020.
2. The Divisional Railway Manager
O/o. DRM, Western Railway,
Ahmedabad Division,
Nr. Chamunda Bridge, Asarwa,
Ahmedabad 380 002.
3. The Chairman
Railway Recruitment Board
O/o. RRB, 1st Floor, M.G. Railway Station Building
Ahmedabad 380 002. Respondents
(By Advocate : Ms. R.R.Patel)

ORDER (ORAL)

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

1. The applicant herein had applied for the post of Junior Engineer
(Signal) GDCE pursuant to Employment Notice No.01/2010 issued
by the respondent No.3. Attendance Slip for written test scheduled

CAT, Ahmedabad Bench

on 28.2.2013 was issued to him (Annexure A/1). As per the result declared on 06.02.2013 wherein the first three candidates were found eligible for verification and genuineness of the candidature. In addition to these three candidates, two candidates were also provisionally called for and the Roll No. of the applicant has taken place in the said additional list. In the said result, further it is mentioned that the additional candidates are called as wait listed candidates over and above the numbers of vacancies. This is primarily to avoid short fall in the panel. Thereafter, the respondents No.3 had prepared the select list on 09.5.2013 and the same was forwarded to the General Manager, Western Railway, Mumbai. It is contended that the name of the applicant herein was placed at Sl. No.1 in the wait list as OBC candidate. Thereafter, in the year 2015, the applicant came to know that one candidate did not join the service. Therefore, to know what steps respondents had taken against the candidate who did not report / join his duty on his appointment, he sought information under RTI Act, 2005 by way of filing an application dated 05.01.2015. In response to it, vide letter dated 19.01.2015 (Annexure A/4) had received the reply under the RTI Act, 2005, no information has been supplied with regard to what steps the respondents had taken for replacement panel. Hence, this OA.

2. Counsel for the applicant, Shri M.S.Trivedi submits that one selected candidate from the select panel declared on 09.5.2013

CAT, Ahmedabad Bench

namely Shri Kaushik Kumar Modi did not report for training. Therefore, the respondents ought to have followed the instructions contained in RBE No.06/2003 dated 08.01.2003 (Annexure A/3) for deletion of the said candidate and by way of replacement, the applicant ought to have been considered for appointment. The relevant portion of the said RBE No.6/2003 reads as follows :

“Board have decided that replacement panel can be asked for by the Railway within the currency of the panel i.e. upto one year, in normal cases and upto two years if the currency of the panel has already been extended by another year by the General Manager of the Railway personally. The Railway should ensure operation of the replacement panel during the currency of the panel or latest upto 3 months of the expiry of the panel.”

3. Counsel for the applicant further submits that the respondents have failed to follow the said RBE No.06/2003 and deprived the applicant to get the benefits of an employment. He further submits that after 01.08.2015 the General Manger ought to have taken a decided for extension of the panel in terms of the RBE No.06/2003.
4. Per contra, the respondent Nos.1 & 2 have filed their reply and denied the claim of the applicant. The respondents has placed on record a communication dated 09.05.2013 whereby three candidates in their merit order were selected for the post of Junior Engineer (Signal) and recommended by the RRB/ADI and the same were allotted to DRM(E), ADI Division with a direction to send them for training and on completion of the training (Annexure R/1 refers). It is further contended that as per letter dated 03.12.2013, two

CAT, Ahmedabad Bench

candidates were sent for training, after completion of their training, both candidates were offered appointment vide order dated 23.07.2015. It is contended that selected candidate Shri Kaushik Kumar Modi reported for medical after issuance of letter dated 25.06.2013 (Annexure R/5). He was declared fit for A-3 medical on 26.08.2013. He submitted his unwillingness letter dated only on 01.08.2015 (Annexure R/6) that too after expiry of the panel on 27.2.2014. According to the respondents, the select panel was not extended and the same was expired on 27.02.2014. Thereafter, non-joining of any selected candidate or his unwillingness to join the training on 01.08.2015 does not give any legitimate right to the applicant to claim for an employment.

5. The respondent No.3 had also filed their reply and denied the claim of the applicant. It is contended therein that the applicant has not found a place in the select panel, as such, there is no question of posting him as Junior Engineer (Signal). Admittedly, his name was placed in the waiting list. The currency of the panel was for one year in normal case and the same can be extended for another one year with the approval of the General Manager. In the present case, no such extension was granted as there was no need. The panel was expired on 27.02.2014 as no demand for replacement panel was received during the currency of the panel. Merely calling the candidates for verification of the documents does not in any way

CAT, Ahmedabad Bench

entitled them for empanelment /appointment in Railways. The RRB has made it clear the said condition while calling the candidates for verification. The respondent No.3 places reliance on call letter issued for written examination (Annexure R/1). It is further contended that there was no short fall in the panel as it can be seen from the result after document verification published on 28.2.2013 (Annexure R/2).

6. The applicant has filed separate rejoinders to each of the reply of the respondents. The applicant has reiterated his contention. It is contended that as per the result prepared by RRB on 28.02.2013, one OBC candidate and two SC candidates were placed on panel. Since one candidate did not join and submitted his unwillingness in the year 2015, the respondents ought to have consider the name of the applicant from the panel of waiting list for appointment to the post of Junior Engineer in terms of RBE No.06/2003. Counsel for the applicant has also filed written statement and reiterated the contentions stated in the OA and rejoinder and arguments offered during the hearing.
7. Heard the counsel for both the parties and perused the material on record.
8. It is noticed that the select panel prepared on 09.5.2013 came to be expired on 27.2.2014. It can be seen that RRB vide its called letter

CAT, Ahmedabad Bench

dated 6.2.2013, called three candidates who are found eligible for verification of documents and genuineness of candidature in ascending order of merit. In addition to these three candidates, the RRB had also provisionally called two **additional** candidates wherein the Roll No. of the applicant has been included in the said additional list of candidate as wait listed candidates over and above the number of vacancies. The respondents in their reply contended that during the currency period of select panel, no shortfall was found and after declaration of the said panel, on completion of one year of it, the said panel was expired on 27.2.2014. As such there was no need for extension of the panel. After expiry of the panel, if any selected candidate declared his unwillingness to join or continue the service, does not give any right to wait listed candidate to claim appointment. In view of the above, as also considering the instructions contained in RBE No.06/2003, as referred hereinabove, we do not find any substance in the claim of the applicant that the respondents have failed to give any benefits to the applicant in respect to RBE No.06/2003.

9. The OA stands disposed of accordingly. Pending MA also stands disposed of. No order as to costs.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

Nk