

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**Original Application No.275/2014.**

**Dated this the 27<sup>th</sup> day of June, 2021.**

**CORAM:**

**Hon'ble Sh. Jayesh V. Bhairavia, Member (J)**

**Hon'ble Dr. A.K. Dubey, Member (A)**

1. Rupeshkumar Roy  
S/o. Nirmal Roy,  
Aged 35 years,  
Desig. ECRC under DRM RJT.  
R/o. A-8, Aashirbad, Momainagar,  
Jamnagar- 360001.
2. Smt. Manisha Dixit  
W/o. Late Satish Singh Dixit  
Aged 39 years,  
Desig. ECRC under DRM RJT  
R/o. Seri No. 4 Let. Satish Vyas (Opp.)  
Jamnagar-360001.

...Applicant

(By Advocate: Ms. S S Chaturvedi)

Vs

1. Union of India,  
Notice to be served through  
Chairman  
Railway Board,  
Rail Bhavan,  
New Delhi- 1100001

2. General Manager (E)  
Western Railway  
Churchgate,  
Mumbai-420020.
3. Divisional Railway Manager,  
Rajkot Division,  
Kothi Compound,  
Rajkot-360001. ...Respondents

### **ORAL(ORDER)**

**PER: Hon'ble Dr.A.K.Dubey Member (A)**

1. The applicants have approached this Tribunal seeking following reliefs:-

*"8.1 Lord ships be pleased to admit the petition. And be pleased to issue order quash and setting aside Annexure A.*

*8.2 Lordships be please to direct the respondent to treat the applicants as eligible for selection to the post of commercial inspector in the pay band of Rs.9300-34800 plus GP Rs.4200 and included the applicant's name in Annexure A/1.*

*8.2.Lordships be please to pass the order to declared the applicant eligible for the post of CML.*

*8.3 The Order for be call for the record.*

*8.4 Any other relief which the Hon'ble Tribunal deems fit.*

*8.5 Cost of suit be awarded."*

2. The applicants are working as ECRC (Enquiry cum Reservation Clerk) in the Commercial department, which is in the PB-1 with GP-2,800/-.

2.1 The applicants submit that the post of Commercial Inspector (CMI) is in the PB2+GP4200. In the Commercial Department and in other railway categories the applicants including commercial departments can participate in the selection process for this post. The applicants have submitted, for example, a notification dated 13/05/1998 by Northern railway, allowing ECRCs to go through the selection process (Annex.A/6). They have stated that after implementation of the 6<sup>th</sup> pay commission's recommendations, the pay scale of booking/Goods, parcel, ECRC have all been put in the scale of PB-1+GP 2800. Vide respondents' communication dated 06.01.2012 for selection to the post of Commercial Inspector in the pay scale of PB-2+GP4200 (Annex.A/4), Commercial clerks in the PB1+GP 2800 could also apply. The respondents did not consider the applicants' eligibility to take the test on the ground that they were working as ECRC which

was not covered vide notification dated 06/01/2012 (Annexure A/4). Further, Western Railway letter dated 15.02.2012 (Annex.A/3) shows that two candidates who are applicants herein were not eligible on the ground that they were working as ECRC. The applicants contend in their representation dated 23/02/2012 (Annexure A/5) that it is the same scale and their post of ECRC is interchangeable with ones that are taken as eligible for the examination and hence they should be allowed to take the test. It is in this context that the applicants have produced the letter from Northern Railway (Annex A/6) showing that ECRCs were allowed to compete for the post of CMI.

3. The respondents have filed their reply in which they have contested the averments of the applicants. Their contention is that as per the AVC notified by Head Quarter Office, vide letter dated 09.08.1994, the applicant was not considered

eligible for the selection process, against which, he had filed OA No.83/2012 before this Tribunal. The OA No.83/2012 was decided by this Tribunal directing the respondents to finalise the selection in accordance with law and rules. Thereafter, the applicants were allowed to provisionally appear in the written test and the applicants' result was kept in sealed cover. The selection was finalised in the light of this Tribunal's order dated 1.8.2012. Aggrieved by it, the applicants filed EA No.29/13 which was disposed of in favour of the respondents vide order dated 07.03.2014. The respondents have also averred that the ECRCs were made only for reservation window and they were not required elsewhere like for sale of unreserved tickets. The respondents submit that in the AVC notified by Head Quarter office vide letter dated 9.8.1994, it was clearly mentioned that the senior commercial clerks specifying their category such as

SBC, SLC, SGC, Sr.ACC could not be considered eligible for undergoing this selection process. This distinction has already been accepted by this very Tribunal.

4. The applicants have filed their rejoinder reiterating their submission.
5. The case was called for final hearing today. During the course of hearing, learned counsel for the applicants specifically drew the attention towards the letter dated 09.09.2010 of Estt. Rule No.157/2010 (Annex.A/3), which is a letter issued by the South Central Railway, Bilaspur for promotion to the post of Commercial Inspector in PB-2 plus GP4200 against 75% departmental quota. Here the eligible category included the staff belonging to commercial departments viz., the post of Sr. Commercial Clerk (PB-1 plus GP 2800). Sr. TC / TTE (PB-1 plus GP Rs.2400 and Enquiry-cum Reservation Clerk (PB-1 plus GP 2800).

Accordingly, these categories would be entitled for seeking avenue against the post notified by that particular division. On this basis, the learned counsel for the applicants drew the attention towards Annexures A1 & A2, regarding promotion to the post of commercial inspector and contended that the candidature of the applicants should have been considered. Hence the prayer to include their names in Annex.A1.

6. Per contra, the learned Standing counsel for the respondents submitted that notice inviting application for the post for Commercial Inspector dated 06.01.2012 (Annex.A/4) was never challenged by the applicants and therefore their prayers should be rejected on this very ground. It was challenged in OA No.83/2012 wherein, this Tribunal permitted the respondents to process the result of written examination in accordance with law. Subsequently when EANo.29/2013 was filed in OA No.83/2012, the same was disposed off

holding that the EA did not lie in the matter because the Tribunal had only directed the respondents to permit the applicants to appear in the examination and to proceed with the selection process as per Rules with which the respondents had complied. Therefore, the first round of litigation cannot be taken as having been decided in favour of the applicant as far as the Eligibility to take the examination for promotion is concerned. He also submitted that the notification at Annex A6, relied upon by the applicant dated 09.09.2010 (Annex.A/13) was actually issued by the South East Central Railway; which itself says that selection would be conducted separately by each divisions for its vacancies and by the Head Quarters for the vacancies in the Headquarters. He drew the attention of RBE161/2009 which shows that within the Commercial Department, TC/TTE/TTI/CTTI constitute one group. Similarly, Commercial clerk, Senior Commercial Clerk,



Head Commercial Clerk, Chief Commercial Clerk and Commercial Superintendent constituted group, whereas ECRC-I, ECR-1 and Reservation Supervisor and Reservation Supervisor-1 constituted yet another group. He further submitted that the communication regarding fresh selection to the post of Commercial Inspector dated 06.01.2012 (Annex.A/4) was very clear in its contents and eligibility clearly mentioned the aspects which is in accordance with the instructions in RBE 161/09 with regard to the vacancies as on 31.08.2009, according to which, the applicants were not eligible for the same. Nor were they considered last time when they approached this Tribunal by way of OA No.83/2012.

7. Heard the learned counsel for the parties and perused the material, documents and records brought before us in the matter.

8. The cause of action in this case arose from notice intimating fresh selection for the post of Commercial Inspector dated 06.01.2012 (Annex.A/4) upon which, the main ground of the applicants was that since they were working as ECRC which was in the same scale in Commercial wing, they should also be considered as eligible for appearing for the selection process by the respondents dated 06.01.2012. The applicants have not challenged the notification dated 06.01.2012 which in any case was in consonance with the RBE/161/2009. Respondents had clearly intimated the same to the applicants vide their communication dated 18.06.2013 (Annex.A). We find that the applicants have not been able to show any discrimination or inconsistency or omission of the respondents or any error in observing the notification dated 06.01.2012. The applicants have not been able to make out a

case for themselves. The OA lacks merit and is accordingly,  
  
dismissed. No Cost.

**(A.K.Dubey)**  
**Member (A)**

**(J. V. Bhairavia)**  
**Member (J)**

skv/kk