

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00786/2019

Wednesday, this the 7th day of April, 2021

CORAM

Hon'ble Mr.P.Madhavan, Judicial Member

Hon'ble Mr.K.V.Eapen, Administrative Member

Arunkumar. E.K, aged 37 years,
S/o Late Kochukuttan E.P.,
House Keeping Assistant,
Medical Department, Southern Railway
Health Unit, Ernakulam South,
Trivandrum Division.
Residing at Edavana House,
Ayyampilly P.O., Cheruvype - 682 501.

Applicant

(Advocate: Mrs. Shameena Salahudheen)

versus

1. Union of India represented by
The General Manager,
Southern Railway, Park Town,
Chennai-600 003.
2. The Chief Personnel Officer,
Southern Railway, Park Town,
Chennai-600 003.
3. The Principal Financial Advisor,
Southern Railway, Park Town,
Chennai-600 003.
4. Chief Medical Superintendent,
Southern Railway, Trivandrum Division,
Trivandrum-695 014.
5. The Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum-695 014.
6. Vimal Raj. R., Office Assistant Accounts
O/o Principal Financial Advisor,
Southern Railway, Chennai.-600 003.
7. Dharmalingam.S, Office Assistant Accounts
O/o Dy. FA & CAO/W&S, Golden Rock,

Southern Railway,
Chennai-600 003.

8. Krishna Kumar C.,
Office Assistant Accounts
O/o Sr. DFM, Southern Railway,
Palakkad Division, Palakkad - 675 002.

Respondents

Advocates:

Mr.V.A.Shaji, ACGSC for R1 to 5.
Mr.U.Balagangadharan for R6 to 8.

The OA having been heard on 9th March, 2021, the Tribunal delivered the following order on 07.03.2021:

ORDER

By P. Madhavan, Judicial Member

This is an application filed seeking the following reliefs:

- (i) *Set aside Annexure A1 to the extent it does not include the applicant.*
- (ii) *Set aside Annexures A11 & A12.*
- (iii) *Direct the respondents to include the applicant also in the Select List and depute him for training for the post of Accounts Clerk.*
- (iv) *Declare that the applicant is entitled to be included in the Select List for the post of Accounts Clerk and grant him promotion.*

2. The applicant is working as a House Keeping Assistant at Ernakulam under the respondents. He joined service of the Railways as Safaiwala and he is presently working as House Keeping Assistant. The 3rd respondent issued a notification proposing to conduct selection for filling up of 4 vacancies of Accounts Clerk in the general category against 8.33% promotional quota from the volunteers of different categories. The notification is produced as Annexure A2. The selection consisted of written examination and scrutiny of service register and the applicant should have minimum 2 years regular service in the concerned seniority unit. According to him, after the issuance of the notification, a

corrigendum was issued on 13.6.2019 reducing the service period from 3 years to 2 years. Since the applicant satisfied all the eligibility criteria, he applied for the same and he attended the entire examination. The 3rd respondent published a list of employees who secured qualifying marks in the written examination as Annexure A4. The applicant's name figures at Sl. No.1. Thereafter, the 3rd respondent published a Select List as Annexure A1. But they did not include the applicant in the select list. The marks obtained by the applicant were published as Annexure A5. As per Annexure A5, the applicant secured 93 marks. The persons who were finally selected in the Select List who are respondents 6 to 8 in the application have only lesser marks. Even though he scored highest marks, he was not selected by the respondents. They filled only 3 vacancies and one vacancy remains to be filled. So according to the applicant, he is denied of justice and the selection is illegal.

3. When the matter came up for consideration for the first time, the applicant sought an interim relief of staying the further proceedings as per Annexure A1 Select List and it was granted by this Tribunal on 31.10.2019. Subsequently, the respondents filed an MA for vacating the interim order for the purpose of appointing persons from the Select List. It was also opposed by the applicant. Since the final reply was filed and the pleadings were complete, the Tribunal decided to hear the OA on merit.

4. The respondents filed a detailed reply admitting the application of the applicant for the post, the existence of 8.1/3% quota for the Safaiwalas etc. According to the respondents, selection process is done centrally at the office of the Principal Financial Advisor, Southern Railway, Chennai, for all the units/divisions in the Southern Railway. The notification contained the vacancies existing in various units of Southern Railway. It also showed the eligibility

conditions and the terms and conditions of selection. The selection procedure is governed by the Revised Procedure No.P.531/HQA/Selection for AC/LDCE dated 23.5.2014 issued by the office of the Principal Financial Advisor, Chennai. As per the Revised Procedure, (a) offices of the same geographical location will be amalgamated as stipulated in Para 3 (a) to (f); (b) vacancies at each of the units will be identified; (c) The vacancies of the units in a particular area will be taken into account for the purpose of selection alone duly taking note of roster points requirements; (d) For administrative convenience, the selection process will be done by Headquarters (PFA/MAS) as is being done hitherto; (e) All matriculate passed candidates of all seniority units within the same geographical area will be permitted to appear for the examination, irrespective of the fact whether vacancies are available in their respective unit or not; (f) The criteria of merit will be applied unit wise at the first instance i.e., candidate of a particular unit who qualify in the exam will alone be considered as per merit against vacancies of that unit; (g) If there are any unfilled posts in any unit(s) after the above procedure, the qualified candidate of other units in the same geographical area who could not be promoted in their respective units for want of vacancy will be considered for selection to such unfilled vacancies in the order of overall merit based on the performance in the written test of same geographical area.

5. The selection process consisted of written examination, record of service etc. and the suitability of the employee will be adjudged based on the performance in the above examination. Since the applicant belongs to Safaiwala and eligible for 8.1/3% quota, his application was accepted. There were about 27 eligible candidates from various units/divisions for the selection conducted centrally at Chennai. The applicant's candidature was accepted as there existed one vacancy in Chennai (MAS Area) in the office of the PFA/O/MAS as the

geographical area of his working place Perambur is in Chennai area. Three candidates qualified from the units where they are working are empanelled against the vacancies in that unit as per criteria B (2) of the Revised Procedure dated 23.5.2014. If a candidate of the same seniority unit is qualified, candidates of other seniority units are not considered as per above procedure order. The candidates from other units can be considered on merit under criteria B (3) of the Revised Procedure only if no candidate qualifies in the unit where vacancies are notified in the notification. Therefore, the applicant, irrespective of marks scored, cannot be considered for empanellment as per the criteria mentioned in the Revised Procedure based on which selection process was made. As regards the vacant posts, the respondents would say that one vacancy at Sr. Division Finance Manager, Madurai could not be filled up as no candidate has applied in the unit mentioned in geographical location of MDU area. Hence it was not filled up as per criteria stipulated in B of the Revised Procedure. So according to the respondents, the applicant is not entitled to get any appointment as claimed by him. A copy of the Revised Procedure dated 23.5.2014 is produced as Annexure R1 by the respondents. A copy of the select list is also produced as Annexure R2.

6. We have heard the counsel for applicant as well as the counsel for respondents and have also gone through various pleadings and documents produced in this case.

7. On going through the revised procedure and notification issued in this case, it can be seen that the selected candidates should belong to the units where he works and only those persons will be considered in the Limited Departmental Competitive Examination. The marks obtained by the applicant could not be utilized in this case because the applicant was not eligible as he belongs to another unit and he cannot be appointed in the units prescribed for respondents 6 to 8. The

only vacancy remaining in this case is that of MDU where there was no application from that unit. So there is no merit in the contentions put forward by the applicant in this case. The notification and revised procedure for selection notified by the respondents clearly support the case of the respondents in this case. So there is no merit in the arguments put forth by the applicant in this case. Hence OA lacks merit and it is liable to be dismissed. We do so.

(K.V.Eapen)
Administrative Member

(P.Madhavan)
Judicial Member

aa.

Annexures filed by the applicant:

- Annexure A1: True copy of the Select List No.P.531/ HQA/Selection for AC/8.33% dated 27.09.2019.
- Annexure A2: True copy of the Notification No.P.531/HQA/Selection for AC/8.33% dated 10.6.2019.
- Annexure A3: True copy of the Corrigendum Notification No. P. 531/HQA/Selection for AC/8.33% dated 13.6.2019.
- Annexure A4: True copy of the proceedings No. P. 531/HQA/Selection for AC/8.33% dated 22/8/2019.
- Annexure A5: True copy of proceedings No. P. 531/HQA/Selection for AC/8.33% dated 01/10/2019.
- Annexure A6: True copy of the Certificate of Merit, issued by the Principal/Chief Medical Director.
- Annexure A7: True copy of the representation submitted by the applicant dated 15.10.2019.
- Annexure A8: True copy of the RBE No.77/2016 dated 24.6.2015.
- Annexure A9: True copy of the PBC No.60/2017 dated 8.5.2017.
- Annexure A10: True copy of the notification issued by the 3rd respondent for 25% promotional quota.
- Annexure A11: True copy of the revised procedure No.P.531/HQA/Selection for AC/LDCE dated 23.5.2014 of the 3rd respondent.
- Annexure A12: True copy of the communication No.P.531/HQA/Selection for AC/8.33% dated 31.10.2019 of the 3rd respondent.

Annexures filed by the respondents:

- Annexure R1: True copy of the Revised Selection Procedure issued by the Office of PFA/MAS (then FA&CAO) No. P.531/HQA/Selection for AC/LDCE dated 23.05.2014.
- Annexure R2: Signed copy of the mark list issued by the Office of PFA/MAS vide No. P.531/HQA/Selection for AC/8.33% dated 01.10.2019.