

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

.....
(Registration T.A. No. 752 of 1986)

Makhan Lal.....Applicant

vs.

Union of India & Others.....Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(By Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant, a member of Schedule Castes community was appointed in Railway service in the year 1954 as a Pointsman. Later on after getting intervening promotion the applicant was sent for Gaurds training in Zonal Training Institute, Bhusawal in the year, 1979. The plaintiff alleges that he qualified successfully in the above training and was granted Gaurd Certificate of Competency on 7.8.1980. His Competency Certificate was examined by four officers. There are a number of vacancies of Gaurd in the Bhandi Division, but the applicant was not appointed, even though as a member of Scheduled Castes Community, he was entitled to one post from the reserve quota. The applicant was required to deposit his Competency Certificate on 20.6.1980 on some pretext which he did, but while depositing it he took a photostat copy of the same. As the applicant was not appointed despite of his efforts, he filed a suit for mandatory injunction praying that the defendants should be directed to post him as Gaurd-C in accordance with the Competency Certificate dated 7.1.1980 and also in accordance with 40 point roster.

2. The defendants in their statement had admitted that there are 3 posts on which the appointment may have been made, but the applicant had not passed the training

as such there was no question of promoting him to the post of Gaurd-C. Their stand is that he did not qualify and no clear reply to the Competency Certificate alleged by the applicant was given. The applicant has filed a photostat copy of the Competency Certificate and the defendants have also filed certain documents. From the said documents it is clear that infact the Competency Certificate was filed by the applicant, and it appears that according to the respondent by mistake was issued, that is why in one of their communications which is on record, it was stated that the error is regretted. Under those circumstances the respondents, instead of making bare denial, they could have explained circumstances under which the Competency Certificate was issued. The marksheets which has been produced before us indicates that the applicant's position was at number 14 and he secured a total of 48.33% marks and that is why he was declared to have failed. It appears that even then he secured more than the qualifying marks fixed for the examination. He being a member of Schedule Castes community and best amongst the unsuccessful candidates and it appears that he was declared to have been passed in the examination. But later on as he didn't secure more marks, he was declared to have failed. But as there were three posts, in view of the 49 point roster, the applicant was entitled to one post. It was not necessary that there should be 5 or 6 posts on which the members of the Schedule Castes were to be appointed.

3. Accordingly the respondents fell into error in rejecting his name on the ground that he has not passed the examination or secured lesser marks. Accordingly this application deserves to be allowed. The respondents are directed to promote the applicant to Gaurd-C post on

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on the ground that he comes from the reserved quota ,
that is reserved for the member of Scheduled Caste
Community. Let it be done without delay. No order
as to costs .

Amalendu

Member (A)

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Vice-Chairman

10th September, 1991.