

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Allahabad : Dated this 27th day of May, 2002.

Original Application No.1277 of 1995.

CORAM :-

Hon'ble Maj Gen KK Srivastava, A.M.

Hon'ble Mr. AK Bhatnagar, J.M.

Krishna Pal Singh,

Son of Late Ram Ugresh Singh,

Resident of Village Bisauri,

Post Chandauli, Distt-Varanasi.

(Sri W.H. Khan, Advocate- not present)

.Applicant

Versus

1. Union of India through General Manager,
DLW Varanasi.
2. General Manager,
Diesel Locomotive Works,
Varanasi.
3. Shri Punni Swami,
Dy. Chief Personnel Officer,
Diesel Locomotive Works,
District Varanasi.
4. Shri Birendra Singh,
Dy. Chief Mechanical Engineer (Tooling)
Diesel Locomotive Works,
District Varanasi.
5. Shri Jai Nath,
Office of the Security Commissioner,
D.LW. Varanasi.
6. Shri Chithhad Prasad,
Office of the Dy. Chief Engineer,
D.LW. Varanasi.



7. Shri Mangal Prasad,
Office of the Dy. Chief Engineer,
D.L.W. Varanasi.

8. Shri R.A. Harijan,
Office of the Principal,
P.T.S., D.L.W., Varanasi.

(Sri Amit Sthalekar, Advocate)

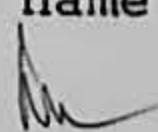
.. . . . Respondents

O R D E R (O_r_a_l)

By Hon'ble Maj Gen KK Srivastava, A.M.


In the present OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed to quash the list i.e. panel of selection to the post of O.S. Grade ^bII dated 31-3-1995 (Annexure-3) and dated 7-9-1995 (Annexure-4) and also the order dated 13-11-1995 rejecting the representation of the applicant and has prayed that the respondent nos.1 and 2 be directed to cancel the names of respondent nos.5, 6, 7 and 8 from the panel dated 7-9-95 and include the name of the applicant amongst successful candidates for being posted as O.S.

2. The facts, in short, giving rise to this OA are that the applicant ~~was~~ initially joined as a Clerk on 5-7-1994 in the Office of Chief Controller of Stores, Eastern Rly. Calcutta. Subsequently, the applicant joined the DLW, Varanasi on transfer as a Clerk in November, 1975. The applicant was promoted as ^w Head Clerk in November, 1991. By Notification dated 1-7-1995 nine posts of O.S. were to be filled by promotion from amongst Head Clerks in the grade of Rs.1400-2300 on seniority-cum- suitability basis. 27 Head Clerks were called for appearing in the written test. However, a few did not appear in the written test held on 21-7-1995 and 7-8-1995. The applicant appeared in the written test. He was declared successful in the written examination and his name appeared in the panel for



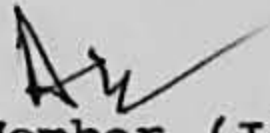
viva voce. On 7-9-1995 the panel for promotion to OS-II in the scale of Rs.1600-2600 was declared ⁱⁿ which the name of the applicant did not appear. Hence, this OA which has been contested by the respondents.


3. The applicant in this OA has pleaded that undue favour has been done to respondent nos.5 and 6 belonging to the reserved class. All the nine vacancies were for general categories ⁱⁿ and since respondent nos.3 and 4 who were members of the Selection Committee ⁱⁿ belonged to reserved class, they exerted undue favour to candidates belonging to reserved class, made manipulation in the record of written examination as well as interview by adding ⁱⁿ extra marks ^{to the} marks of the written examination and interview in respect of respondent nos.3 and 4. The selection is totally biased and is liable to be set aside. The applicant has also pleaded that he made a representation before the authorities on 20-11-1995 but respondents illegally rejected the representation by an order dated 13-11-1995. Sri Amit Sthalekar, counsel for the respondents invited our attention to the Circular of the Railway Board dated 5-12-1984 addressed to all General Managers CLW, DLW and ICF ⁱⁿ ~~Preamble~~ ^{Perambur} wherein it has also been laid down that a candidate has to secure not less than 35 marks out of 50 in the written test and a minimum of 60% marks in the written test for the purpose of being called for the viva voce test. Further, a candidate must secure not less than 60% (30 out of 50 marks) in the professional ability and not less than 60% in the aggregate to be eligible to be empanelled. Since the applicant did not secure 60% marks in the viva voce, he was not empanelled. An averment to this effect has been made in Para 6(iii) of the counter affidavit. Therefore, the applicant should have no grievance and the action of the respondents is correct and as per rules.



4. We have perused the records, considered the pleadings and considered the submissions of the learned counsel for the respondents. The post of OS II in the scale of Rs.1600-2660 is a selection post. The Railway Board Circular dated 5-12-1984 which is squarely applicable for the staff of DLW clearly lays down that for promotion to a selection post a candidate has to secure a minimum of 60% marks in the written as well as viva voce. We find force in the submission of the learned counsel for the respondents that since the applicant failed to secure required percentage his name was not put in the panel. In our opinion, the applicant is not entitled for promotion because he could not secure the required percentage of marks in viva voce test. The OA is clearly devoid of merit and is liable to be dismissed.

5. ^{On overall} ~~in all~~ consideration we do not find any ground for intervention and dismiss the OA being devoid of merits. There shall be no order as to costs.


Member (J)


Member (A)

Dube/