

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1164/1995

FRIDAY, THIS THE 13TH DAY OF DECEMBER, 2002

HON'BLE MR. GOVINDAN S. TAMPI .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR ... MEMBER (J)

Chouthi Ram,
S/o Late Sahdeo Ram,
R/o Amogh pur P.O. &
Mughalsarai, Varanasi. Applicant

(By Advocate Shri S.K. Dey)

Versus

1. Union of India, through
the General Manager,
Eastern Railway,
Calcutta-1.
2. The Senior Divisional Personal Officer,
Eastern Railway, Mughalsarai,
District - Varanasi.
3. Sri Asrai Das,
Head Clerk, E.T. Section,
under Sr. Divisional Personnel Officer,
Eastern Railway, Mughalsarai,
District - Varanasi. Respondents

(By Advocate Shri A.K. Gaur)

O R D E R

Hon'ble Mr. Govindan S. Tampi, Member (A) :

Empanelment of applicant for the post of
Office Superintendent Gr.II in place of Respondent No.3
who has been empanelled is the relief sought for in this
case.

2. Heard S/Shri S.K. Dey and A.K. Gaur, learned
counsel for the applicant and respondents respectively.

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3. The applicant, an S.C. officer, is a Head Clerk in the pay scale of Rs.1400-2300/-, whose next promotion post was as Office Superintendent Gr.II in the scale of Rs.1600-2660/-. The applicant's position in the seniority list is at No.16 while Respondent No.3, another S.C. officer was at Sl.No.30. When five vacancies in the grade of O.S. Gr.II came up for being filled, 12 Head Clerks were called for written test for 3 Unreseeved, 1 S.C. and 1 S.T. posts. The applicant was one amongst them. No S.T. candidate was available in the consideration zone. However, to favour Respondent No.3, the S.T. post was also converted into S.C. post and 14 Head Clerks were called including Respondent No.3 and he was placed on the select panel. This was occurred on account of special favour shown to Respondent No.3. The applicant also charges that those at Sl.Nos.1, 2 and 3 qualified in the written test only on the basis of weightage of seniority. There was no reason why he should have been denied the benefit of weightage, he being senior S.C. candidate. The action of the respondents were arbitrary leading to the filing of this O.A. The applicant alleges that increasing the number of S.C. quota by adding the S.T. quota, giving weightage to failed candidates as has been done in the case of those at Sl.No.1,2 and 3 and prejudice of Respondent No.2 had led to his being denied the promotion.

4. On behalf of the respondents 1 and 2, it is pointed out that originally 12 candidates' cases were considered for appearing in the written test on 18.7.1995. As there was no S.T. candidate within the zone of consideration, the same was exchanged with S.C. as permitted under

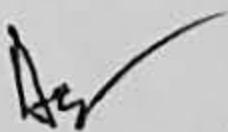
the rules and accordingly other S.C. candidates came to be considered and Respondent No.3 came to be selected. for the S.C. post against the second S.C. vacancy. Rules also provide for giving weightage marks for seniority. The respondents have done nothing wrong but have acted only according to the Railway Board's instructions.

5. On behalf of Respondent No.3, it is pointed out that as there was no S.T. candidate in the zone of consideration, for the second vacancy and the same could be in terms of instructions, exchanged with the S.C. post, he had applied to the authorities for considering his case and the same was done. On his qualifying in the written test and interview, he was selected and the applicant should not have any grievance in the matter. The post of O.S. Gr.II was a selection post and ^{as the applicant} ~~as~~ ^{he did not meet the} grade, he was not selected.

6. During the oral submissions today, it was vehemently argued by Shri S.K. Dey, the department had acted in a highly prejudicial manner as he was concerned with specific favouritism being shown for Respondent No.3. According to him, the benefit of weightage ^{given} to 3 general candidates at Sl.No.1,2 and 3 in the seniority list had been denied to him and in his place, a junior S.C. candidate has been selected. Shri Gaur, appearing for the respondents on the other hand, pointed out that the respondents have acted only in terms of the instructions in force. Any interference was therefore not called for in the selection, prays he.

7. Having considered the facts and circumstances of the case and the evidence brought on record, we have no doubt that the applicant has no case. Instructions provide that vacancies of SC and ST candidates can be exchanged when requisite number of candidates from one particular category is not present. This is what the respondents have exactly done. Both the applicant and Respondent No.3, who was another SC candidate though junior to him, were considered together and in the promotion, which is a selection post, the Respondent No.3 who had performed better had made the grade. The same cannot be faulted. The applicant also cannot say that he should have been given extra weightage for seniority as he had already cleared the examination, ^{as} ~~but~~ he failed only at a subsequent stage. There is no provision for grant of weightage at the interview stage for those who did not perform well. The applicant, not having made the grade in the selection test cannot claim that he should ~~have~~ ^{be} empanelled in the promotion list at the cost of Respondent No.3, who has made it by his merit.

8. In the above view of the matter, we find that the applicant has not made out any case for our interference. O.A. therefore fails and is accordingly dismissed. No costs.


MEMBER (J)


MEMBER (A)

psp.