

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH**

Original Application No. 382 of 2003

Tuesday, this the 28th day of July, 2009

**Hon'ble Mr. Ashok S. Karamadi, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)**

A.K. Gupta, S/o Shri P.L. Gupta, r/o 2/2 Tazia Kalan (Bara Tajia), Johnston Ganj, Allahabad. Working presently as ODI (MP Planning) under Sr. Divisional Commercial Manager, Northern Railway, Allahabad.

Applicant

By Advocate: Sri Sudama Ram

Vs.

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. Chief Personnel Officer, Northern Railway, Headquarters Office, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, D.R.M. Office, Allahabad.

Respondents

By Advocate: Sri Anil Dwivedi

O R D E R

By Hon'ble Mr. Ashok S. Karamadi, J.M.

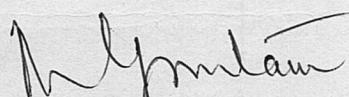
Heard the learned counsel for the applicant and the respondents, and perused the pleadings and materials on record. The main grievance of the applicant is that the respondents did not disclose the marks obtained by the applicant in the viva voce held by the Selection Committee on 12.11.1998 and as such, he



is aggrieved by the selection process in not promoting him. Learned counsel for the respondents, as directed by the Order dated 30.06.2009, has produced the original records, and made a submission that the applicant has failed, therefore, grievance of the applicant does not survive for consideration. Having regard to the fact that applicant has already promoted to the post for which he is seeking the relief, learned counsel for the applicant is not disputed this fact. Further from the perusal of original record, produced by the respondents, it is revealed that applicant's name finds place at serial No. 24 out of 35 candidates. The marks given to him are 122 out of 200 consisting with regard to Professional Ability, Record of Service and Viva voce. In view of this fact, as the case of the applicant was considered along with other persons and finding him unsuitable, therefore, we do not find any justification in interfering with the Order, which is impugned, in which it is replied to the applicant that from the records he could not secure the minimum qualifying marks as per overall performance in record of Service & Viva Voce hence his name could not find place on the ACM's Panel against 70% vacancies in the Commercial Department formed in the year 1998. In this view, communication dated 03.12.2002, which is challenged in this O.A., as contended by the applicant himself that he is under bonafide impression that he has secured more marks, and the respondents have not considered his case in just and fair manner due to disciplinary proceedings against him, and marks allotted to the applicant are not correct while considering the name of the applicant to the ACM's Panel.

A handwritten signature in black ink, appearing to read 'R. K. Jha'.

2. Having regard to the contention taken by the applicant and on perusal of record, we are, *prima facie*, of the opinion that the applicant has not made out a case for interference against the impugned order. The reasons given by the respondents, overall taking into consideration of the entire materials pertaining to the applicant, is based on the records, therefore, the O.A. does not survive for consideration as the same is devoid of merit hence the same is dismissed. Learned counsel for the applicant states that applicant has got some other grievance against the respondents' department. Applicant is at liberty to approach the appropriate forum with regard to grievance if he has other points than the point decided by us today. There shall be no order as to cost.



[Manjulika Gautam]
Member 'A'



{Ashok S. Karamadi}
Member 'J'

/M.M/