

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NO

Promotion

O.A. No.
~~XXXXXX~~

240 of 1989

DATE OF DECISION 08.04.1993.

Shri Chainsingh M. Petitioner

Shri A.M.Saiyed Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri N.S.Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr.V.Radhakrishnan : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

Shri Chainsingh M.,
Deputy Shop Supdt.,
C/o. Chief Works Manager (Engg. W/s),
Western Railway,
Sabarmati,
Ahmedabad - 380 019.

...Applicant.

(Advocate : Mr.A.M.Saiyed)

Versus

1. Union of India,
Through The General Manager,
Western Railway,
Churchgate, Bombay-400 020.
2. The Chief Engineer,
Western Railway,
Churchgate, Bombay - 400 020.
3. The Chief Works Manager,
(Engg.W/Shop), Western Railway,
Sabarmati, Ahmedabad - 380 019.

...Respondents.

(Advocate : Mr.N.S.Shevde)

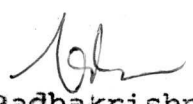
ORAL JUDGMENT


O.A.NO. 240 OF 1989.

Dated :08.04.1993.

Per : Hon'ble Mr. N.B.Patel : Vice Chairman

On behalf of the applicant, Shri A.M.Saiyed states that the applicant is subsequently ^{promoted} permitted to the grade claimed by him and, therefore, the applicant's grievance has now disappeared. The application therefore, has become infructuous. Mr.A.M.Saiyed seeks permission to withdraw the same. Permission granted. The application stands disposed of as withdrawn. No order as to costs.


(V.Radhakrishnan)
Member (A)


(N.B.Patel)
Vice Chairman

AIT

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. OA/240/88 of 199

Transfer Application No. _____ Old Writ Pet. No. _____

C E R T I F I C A T E

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).

Dated : 25/5/83

Counter-signed : 25.5.83

Section Officer/Court Officer

198 haema
Sign. of the Dealing Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX SHEET

CAUSE TITLE GA/240/88 OF 19

NAMES OF THE PARTIES Sri Chaitanya M.

VERSUS

U. a. l. & a. l. s.

PART A B & C

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4.	Judgment dt. 8/4/93.	

part

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

Submitted: C.A.T./Judicial Section.

Original Petition No.: 210 of 89

Miscellaneous Petition No.: of

Shri N A Chauhan Petitioner(s).

Versus.

Union of India Respondent(s).

This application has been submitted to the Tribunal by Shri N A Chauhan under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application is not been found in order for the same reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days/Draft letter is placed below for signature.

Requester's note for joint application filed under for spouse copy not filed - not mentioned.

The may put up 15.0.89 for order on 17/6/89 as per order 5/1/89. direction on 12/6/89

8/9/89

GAC/...

12-06-89

CENTRAL ADMINISTRATIVE TRIBUNALAHMEDABAD BENCHAPPLICANT (S) N R ChauhanRESPONDENTS (S) Union of India &cPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION

1. Is the application competent?

2. (A) Is the application in the prescribed form?

(B) Is the application in paper book form?

(C) Have prescribed number complete sets of the application been filed?

3. Is the application in time?

If not, by how many days is it beyond time?

Has sufficient cause for not making the application in time stated?

4. Has the document of authorisation/ Vakalat nama been filed?

5. Is the application accompanied by B.D./I.P.O for Rs.50/-? Number of B.D./I.P.O. to be recorded.

6. Has the copy/copies of the order(s) against which the application is made, been filed?

7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed?

(b) Have the documents referred to in (a) above duly attested and numbered accordingly?

(c) Are the documents referred to in (a) above neatly typed in double space?

8. Has the index of documents has been filed and has the paging been done properly?

Y

Y

Y

Y

Y

Y

775301

TOO specific order
under challenge

Y

Y

Y

Y

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?
11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with annexures filed.
 - (a) Identical with the original.
 - (b) Defective.
 - (C) Wanting in Annexures
No _____ Page Nos _____?
 - (d) Distinctly Typed?
13. Have full size envelopes bearing full address of the Respondents been filed?
14. Are the given addressed, the registered addressed?
15. Do the names of the parties stated in the copies, tally with those indicated in the application?
16. Are the translations certified to be true or supported by an affidavit affirming that they are true?
17. Are the facts for the cases mentioned under item No.6 of the application.
 - (a) Concise?
 - (b) Under Distinct heads?
 - (c) Numbered consecutively?
 - (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for, stated with reasons?

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Opd - a
12/6/88

signature 24/7/89
9/6

①

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH

AT AHMEDABAD.

OA/ 240 /1989

N.R. CHAUHAN & ANOTHER..

..APPLICANT.

Versus.

UOI & OTHERS...

.. RESPONDENT.

URGENT NOTE

The humble submissions of the Advocate for the applicants above named :-

The subject matter of this application is urgent. The selection proceedings for the posts of Dy. Shop Supdt. against which this application is made are likely to be completed by 16.6.1989 without rectifying the fundamental flaws. This may cause ~~serious~~ ^{serious} ~~spurious~~ and irreparable loss to the applicants.

The matter is, therefore, urgent in which interim relief is sought for.

It is prayed to fix up the admission of the application on or before 16.6.1989 in the interest of justice.

Ahmedabad.

Dt. 9.6.1989.

Applicants' Advocate.

DD 5 175301
7/6
Kept on 15/6/89
9/6/89

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH
AT AHMEDABAD.

Orig. Appln. No. OA/240/1989.

N.R.Chauhan and another.

... Applicants.

Versus.

UDI and others,

... Respondents.

DECLARATION.

We, the undersigned, hereby declare
that we have today filed a Joint application
before this Honourable Tribunal wherein we
have a common cause of action and common relief
is sought for.

Ahmedabad,

Dated: 9-6-1989.

(1) N.R. Chauhan (N.R. CHAUHAN)

(2) Chaitanya M. CHAIN-SINGH

SLEP no 251/89
-9/6

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BENCH

AT AHMEDABAD.

OA/ 260 /1989

N. R. CHAUHAN & ANOTHER...

.... APPLICANT.

Versus.

UOI & OTHERS..

..... RESPONDENTS.

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(4)	A-III	CWM(EW) SBI's letter No. E/1025/10	19.1.89	23
(5)	A-IV	HQ Office, CCG's letter No. EP-1025/0 Vol. II circulating Rly. Board's letter No. E(NG) I-83-PMI-65(PNM/NFIR) dt. 17.4.89	3.5.84	24-25
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Ahmedabad.

Dt. 9.6.89

Applicant's Advocate.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BENCH AT AHMEDABAD.

Orig.Appli.No. OA/260 of 1989.

(1) N.R.Chouhan,
Hindu, Adult,
Occu: Deputy Shop Supdt.,
C/o.Chief Works Manager (Engg.W/s),
Western Railway, Sabarmati,
Ahmedabad-380019.

deleted as per
H.C. Tribunal
order dt- 14/3/90
passed in
May 59/89.
conf /
19/3/90

(2) Chainsingh M.,
Hindu, Adult,
Occu: Deputy Shop Supdt.,
C/o. Chief Works Manager (Engg.W/s),
Western Railway, Sabarmati,
Ahmedabad-380019.

... Applicants.

Versus.

(1) Union of India,
Through The General Manager,
Western Railway, Church Gate,
Bombay-400 020.

(2) The Chief Engineer,
Western Railway, Church Gate,
Bombay-400 020.

(3) The Chief Works Manager,
(Engg.W/Shop), Western Railway,
Sabarmati, Ahmedabad-380019.

... Respondents.

P.T.O.

See Mr
ATF for
9-1-88

-: 2 :-

Application u/s. 19 of the
Administrative Tribunals Act, 1985.

The humble submissions of
the applicants above-named:

1. Particulars of order/orders against this
which application is made :-

Selection process for promotion to the
posts of Deputy Shop Supdt., Pay Scale Rs.2000-
3200 (R/P), which is incomplete for admitted
fundamental procedural flaws and which is de-
cided to continue and finalise by the Railway
Administration despite objections from the
employees concerned and the Trade Unions :-

<u>Letter No:</u>	<u>Date :</u>	<u>Annexure :</u>
i) E/1025/10	25.4.88	A-I
ii) E/1025/10	2.12.88	A-VII
iii) E/1025/10	19.1.89	A-III
iv) E/E/1025/5/8	26.5.89	A.VI.

2. Jurisdiction of the Tribunal :-

The applicants declare that the subject
matter for which they want redressal is within
the jurisdiction of this Honourable Tribunal.

3. Limitation :-

The applicants further declare that
this ~~is~~ application is within the limitation
prescribed u/s.21 of the Administrative Tribunals Act, 1985.

4. The facts of the case of applicants are as under :-

4.1: The applicants submit that they are citizens of India and are permanent employees of the Western Railway at present holding the senior supervisory posts of the Deputy Shop Supdt. in the scale Rs. 2000-3200 (R/P), under the respondent no.3. The applicants belong to the reserved community who enjoy the prescribed privileges and concessions.

4.2: The applicants at the outset clarify that the promotion of applicants who are non-gazetted Railway servants is governed by the Chapter-II of the Indian Railway Establishment Manual and directives issued by the Railway Board from time to time. That the provisions of Indian Rly. Estt. Manual and directives of the Rly. Board are required to be followed by the Administrative offices of the Railway. As per paras 209 to 213 of the Indian Rly. Estt. Manual, broadly there are two kinds of posts (1) Selection posts and (2) non-selection posts. The selection posts are to be filled by a positive act of selection made by the help of Selection Board from among the staff eligible and willing for selection. The employees to be considered should ordinarily not be

beyond two grades below the grade for which the selection is to be held. The panel of selected employees is to be approved by the competent authority which ordered the selection and constituted the selection Board. The dispute raised in this application is regarding selection for the posts of Deputy Shop Supdt., scale Rs. 2000-3200 (R/P), Plant Repair Group, instituted vide respondent no.3's letter No: E/1025/10 dated 25.4.1988. The selection consists of written test and viva voce test. The applicants produce herewith a copy of the letter dated 25.4.88 at Annexure A-1. The selection in question with which the applicants are concerned is in process. Only written test is completed and viva voce test is yet to be held as would be observed from the copies of letters dated 13.1.89 and 19.1.89 annexed herewith and marked A-II and A-III respectively.

- 4.3: ~~222~~ The applicants say and submit that the selection is a complete procedure in itself. It is to be conducted with no flaw keeping in view the interest of the employees concerned. From beginning to end it is to be processed very carefully. There were instances where defects and imperfection in the conduct of selection were noticed by the

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Rly. Board. As a result various instructions -and guide-lines are afloat from the Rly.Board to be ensured by both the competent authority ordering the selection and Selection Board constituted for the purpose.

4.4 The applicants feel that there are several flaws in the matter of selection which is under challenge here. To illustrate, these are elaborately explained below :-

- (1) The post of Deputy Shop Supdt. (Mech. or Elect.) is a safety category as declared vide Rly.Board's letter No: E(NG)I-75-PM-I-44 dated 16.8.82. The selection which is in hand is for the post of Dy. Shop Supdt. (Mech.). The conditions prescribed for selection for safety category are to be strictly observed. The post of Dy. SS is not taken as safety category before initiating the selection. This error is discovered by respondent no.3 very late as in evident from Annexure A.III. The SC/ST candidates were required to be given pre-selection training which is obligatory for them in the case of safety category. Such training was not imparted at the proper time and it is proposed now when the part selection(written test) is over. Consequently, the applicants who belong to SC/ST community have failed to qualify in the written test.

(ii) The Rly. Board have decided vide their letter No.E(NG)I-83-PMI-65 (PNM/NFIR) dated 17.4.84, copy circulated under H.Q. Office No. EP-1025/0 Vol.II dated 3.5.84 (Annexure A.IV herewith) that the question paper for selection post should carry objective type questions of 50% of marks. It is the experience that in the older age group the capacity of the employees to answer the written papers gets reduced though they have adequate knowledge of work gained practically. Their juniors who are younger in age tend to score over them in the written tests. Flexibility in the aforesaid percentage is permitted, but when it is excessive and defeating the aim and object of the circular of Rly. Board, its reasonableness as is in legal parlance is to be seen. The question paper which was asked to be attempted bears 20 out of 100 marks for objective type of questions. At annexure A-V herewith is a copy of the question paper under the subject. In the written test held on 27.7.88, employees over 50 years of age appeared who found difficulties to cope up with large portion of descriptive type of questions. The applicants are among them who have crossed 50 years of age.

(iii) The G.M.(E) CCG to whom the dispute arising out of this selection was referred by the respondent no.3 has taken a decision vide letter No. E/1025/5/8 dated 26.5.89 to

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proceed ahead with the selection. A copy of the said letter dated 26.5.89 is produced at annexure A.VI. Accordingly, the part selection stands good in that the written test for general community candidates will not be taken again and SC/ST candidates (applicants) will be given requisite training. The training programme for the SC/ST candidates is ~~xx~~ chalked out vide respondent no.3's letter No: E/1025/31(A) dated 5.6.89. On perusing letter dated 19.1.89 (Annexure A.III) of respondent no.3 and letter dated 26.5.89 (Annexure A.VI) of G.M.(E) CCG, it is clear that the Rly. Administration admit the lacuna in the selection proceedings. A duty is cast upon the competent authority to satisfy itself that there is no procedural irregularity in the selection. This is to be ascertained prior to the finalization and approval of panel. That any solution without cancelling the entire selection proceedings will be wrong. When there are basic irregularities in the selection, the entire proceedings are null and void. There is likelihood of benefit to some persons and denial of it to other persons. Here the problem is of SC/ST candidates, therefore, the Administration should be more cautious to avoid any harm to them.

P.T.O.

(iv) It is very essential to finalize the proceedings of selection expeditiously once the same are started and also to notify the approved panel on top priority as per Rly. Board's Letter No: E(NG) 1-76 PMI/38 dated 30.3.76. Normally time limit allowed for finalization of selection/suitability test for promotion is six months. If a period of six months ^{has} passed, the test ^{assumes} ~~assessments~~ character of a fresh test. Those candidates who have failed are eligible to appear again at the test on expiry of a period of six months from the date the result is declared. If the result/finalization of panel is delayed for one reason or the other, the right of failed candidates for re-test is damaged in view of Rly. Board's Letter No: E(NG) 6 PMI/98 dated 13.10.1967. In the present case, the selection proceedings were initiated on 27.7.1988 on which date the written test was commenced. It is nearly one year still the proceedings are under process. The process itself is on a wrong footing, therefore, the whole selection is to be nullified.

(v) The seniority of willing and eligible employees is the first and foremost factor for promotion. Every person in employment has an ultimate aim of progress in his career. A senior person has a prior right to be promoted. He may be passed over only

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if he is unfit for holding the post to which he is to be promoted as per provisions in the Indian Rly. Estt. Manual. As such a person who is senior is not ordinarily to be discarded for promotion. In the present case 8 candidates were summoned to appear at the written test. The candidates at Sl.Nos. 1 to 4 are declared failed in the written test and candidates at sl.nos. 5 to 8 are declared passed vide letter No: E/1025/10 dated 2.12.88 (Annexure A.VII) which is most strange. The candidates at sl.Nos. 1 to 4 are already officiating in the grade Rs. 2000-3200 (R/P) and holding the posts of Dy. S.S. from dates indicated below. There is no complaint or adverse remarks in regard to their working. Among these are the applicants (SC/ST candidates) who have been deprived of pre-selection training.

1. N.R.Chauhan, Offg. Dy. S.S. w.e.f. 19.6.85,
2. G.R.Dave, Offg. Dy. S.S. w.e.f. 1.4.87.
3. Chainsingh M., Offg. Dy. S.S. w.e.f. 1.4.87,
4. B.N.Mistry, Offg. Dy. S.S. w.e.f. 30.11.87.

(vi) It is doubted whether a model answer book was given to evaluating Officer with the assistance of which he could have evaluated the answer books. The post of Dy. S.S. is leaning much to the mechanical side. It is actually a Dy. S.S.(Mech.) post and that is why placed under the safety category. Such

officer who had qualified himself in the mechanical engineering as well was only competent to evaluate the answer books.

(vii) In the written test, candidate whose academic qualification is hardly upto primary standard is found successful and those who have secondary and even higher standard qualifications are declared failed.

(viii) The number of candidates to be called ~~xx~~ at the selection should be equal to three times the number of vacancies assessed. Thus $6 \times 3 = 18$ candidates were to be summoned. Candidates in the grade immediately below the selection grade are to be considered first and if adequate candidates are not found in that grade, it is necessary to go down to the second grade below as per extent rules/directives. All candidates in the field of eligibility are to be notified in writing to furnish willingness/unwillingness note, as the case may be. The persons who have expressed their unwillingness are not to be reckoned for determining the field. The eligible candidates who have been transferred to other units and whose lien is borne with CWM (Engg.W/Shop) Sabarmati (respondent no.3) or whose lien is not suspended under competent sanction, are not informed about selection. Only 8 candidates found place in the call letter for selection which has resulted into complaints.

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- (ix) Out of 6 posts, one post for ST and one post for ST are to be filled. According to seniority, employee at Sl.No.1 is ST, employee at sl.no.3 is SC and employee at Sl.no.8 is SC. In the written test employees at Sl.Nos. 1 to 4 have failed and employees at Sl.no. 5 to 8 have succeeded. If the written test held without pre-selection training is not cancelled, the employee at Sl.no.8 will have undue advantage of being empanelled. The ST employee at Sl.No.1 and SC employee at Sl.No.3 will have a great loss though reservation for them exists.
- (x) There are number of representations from aggrieved employees including the applicants. The trade unions have also represented against the procedural irregularities in the selection. Copies of detailed representations dated 10.1.89 and 25.2.89 from the Secretary, work-shop Branch, Western Rly. Mazdoor Sangh, Sabarmati, are annexed herewith and marked A.VIII and A.IX respectively. That whenever such complaints are made, the Administration have to ^{reply} ~~reply~~ on each point. Unfortunately this is not done. The letter dated 26.5.89 from the H.Q. Office (Annexure A.VI) on the contrary directs that SC/ST candidates be given the requisite training treating their failure in the

.P.T.O.

written test as void. The result of the general community candidates who are successful in the written test is not cancelled. The position of SC/ST candidates is more awkward.

5. Grounds for relief with legal position :

The applicants submit that the procedural irregularities in the selection are enumerated in para 4.4 above. In addition, the grounds on which the proceedings of selection are to be quashed are as under :-

(a) The SC/ST candidates are to be afforded full facility of various concessions and privileges admissible to them. In the instance case pre-selection training is obligatory. By this it is meant that prior to holding a written test of the eligible employees, the SC/ST employees should be given training. The written test of ~~the~~ all the candidates should be one and not separate for general community candidates and SC/ST candidates.

(b) The decision taken vide GM(E) CCG's letter dated 26.5.89 (Annexure A.VI) and follow-up action by the respondent no.3 are wrong and misconceived. On one hand, the written test of SC/ST employees is declared as void and on the other the written test of general community employees is taken as

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valid. The SC/ST employees are, therefore, required to attempt a separate question - paper. In one selection, two different question papers are not permissible. Second question paper can only be set up in a supplementary test which is prescribed solely for absentees, in the original test.

(C) Even if no fresh written test of SC/ST candidates (applicants) is taken and they are allowed to appear at the viva voce test on the basis of marks obtained taking into account the seniority marks as per letter dated 2.12.88 (Annexure A.VII) of respondent no.3, it is injurious to them. By misfortune if the applicants do not get requisite marks in the viva voce test, they may ultimately fail ~~in~~ in the selection.

(d) The letter dated 19.1.89 of the respondent no.3 (Annexure A.III) and letter dated 26.5.89 of the GM (E) CCG (Annexure. A.VI) confirm the procedural irregularity in the selection. The pre-selection training which is obligatory is not given to the SC/ST candidates. When the proceedings are void ab-initio part modification cannot correct them. In spite of admission of irregularity and staff concerned to be taken up for lapse, the selection proceedings are continued which have left the applicants in a state of anxiety.

(e) The training now proposed for SC/ST candidates will not be a pre-selection training in true sense. The pre-selection training to them can be said only when one question paper is to be attempted by general community candidates and SC/ST candidates. If training to SC/ST candidates is left out, it is to be imparted first and fresh written test of ~~all~~^{the} eligible candidates of general and SC/ST communities is to be conducted.

(f) The point for consideration is that the Administration cannot cancel the results partially. The whole list of persons who have passed in the written examination including general candidates is required to be cancelled in terms of Rly. Board's letter no. E(NG) 167-PM-I/47 dated 5.2.69 and fresh selection including written test for all eligible candidates is to be ordered.

(g) If separate selection is held for SC/ST candidates as designed now, it will create class war between two communities and if applicants succeed in selection, all other staff will finger towards them as supervisor of relaxed standard with no capability. Thus the sole intention of Government to remove the disparity between community and community is defeated.

- (h) The eligible candidates including the applicants were not supplied with the syllabus for the examination prior to holding the selection.
- (i) The training proposed to be imparted for 15 days to the applicant at this stage is unfair because of the situation explained. In other units/departments, pre-selection training for a duration of one month is given in the case of safety categories.

For the reasons, as above, the applicants have a prima-facie case. The proceedings of the selection are not free from defects fundamentally. It was absolutely vital to examine the irregularities at all levels. The decision taken by both CWM (Engg. W/Shop) SBI and GM (E) CCG to continue the selection and finalize it is based on extraneous considerations. It is strange how the respondents authorities are still finding reasons to obviate the essential requirement of selection, namely, the pre-selection training to the SC/ST candidates (applicants) in the manner in which required. The whole proceedings of the selection need to be cancelled and not partly to get rid of the procedural error. This is quite feasible as the panel is not yet finalized or approved. Unless this is done and proceedings of selection are continued as per letter dated 19.1.1989 of CWM (Engg.W/Shop) SBI (Annexure A.III) and letter dated 25.5.89 of

G.M.(E) CCG (Annexure A.VI) it will cause irreparable damage to the applicants as stated in the premises of this application. The remedial action suggested vide the said two letters is wrong, arbitrary, irrational and discriminatory. It is also against the modern notions of social justice especially justice to the employees of SC/ST communities. That, as stated above, the proceedings of selection are defective ab-initio. When the selection is not clothed with requisite formalities and when important ingredient is missing, the proceedings have got to be quashed. The applicants have no other alternative except to approach this Honourable Tribunal for protection under Article-14 and 16 of the Constitution of India.

On these and other grounds that will be urged at the time of hearing, it is prayed to allow the application of the applicants.

6. Details of remedies exhausted :-

The applicants humbly state that the representations were made raising the alarm against irregularities in the selection proceedings not only by them but also by the trade unions. They are not replied by the respondent authorities elucidating on each point and whatever decision is taken is not correct as discussed in paras 4 and 5 above.

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7. The applicants declare that the matter regarding which this application is filed has not been filed previously before any court or Tribunal nor it is pending before any such authority.

8. Reliefs sought for :-

In the above view of facts and legal position, the applicants pray for the reliefs, namely :-

- (i) To quash and declare the selection proceedings which are under way as per impugned orders as void ab-initio, illegal, arbitrary and discriminatory.
- (ii) To direct the respondents that they cannot partially cancel the selection proceedings and partially hold them good as done in this case where peculiar fundamental defects have occurred which are injurious to the applicants who belong to the reserved communities.
- (iii) To further direct the respondents to hold the fresh selection without delay for promotion of eligible employees to the posts of Deputy Shop Supdt. pay scale Rs. 2000-3200 (R/P) which are to be filled.
- (iv) To grant any other relief or reliefs which the Hon'ble Tribunal deem just and expedient.

- (v) To award to the applicants the costs of and incidental to this case.

9. Interim relief, if any, prayed for :-

Pending admission, hearing and final disposal of the application, the respondents may please be directed to stop further proceedings of selection in question.

It is determined by the CWM(Engg.W/Shop) Sabarmati, respondent no.3 to continue and finalize the selection as per the instructions of the H.Q.Office which are based on opinion rather than reason as discussed in the application. It is not a workable ~~xxxxx~~ solution. That where fundamental procedural flaws have crept in, serious thought should have been given to the problem.

The applicants fear that if the selection proceedings are completed by giving untimely training to them, it will cause a permanent injury. That, if panel is finalized, approved and operated, it will be very difficult to amend it. Therefore, interim relief to stay the proceedings of selection is earnestly prayed for in the interest of justice.

10. This application is filed in the Registry of the Tribunal personally.

13

-: 19 :-

11. Particulars of the Indian Postal Order vide which application fee is remitted :-

- (i) No. of I.P.O. 775301 for Rs. 50/-
- (ii) Name of issuing post : G.P.O., Ahmedabad, office.
- (iii) Date of issue of I.P.O.: 8-6-1989.
- (iv) Post office at which : Ahmedabad. payable.

12. List of enclosures :

- (i) Annexures A-I to A-IX i.e. documents relied on.
- (ii) Index in duplicate.
- (iii) Indian Postal order for Rs. 50/-.
- (iv) Declaration for joint application.
- (v) Vakalatnama.

Ahmedabad.

Dated: 9-6-1989.

(1) N.R. Chauhan
(Applicant)

(2) Kamraj
(Applicant)

VERIFICATION.

I, N.R. Chauhan, applicant, residing at Ahmedabad, and employed in the Western Railway, Ahmedabad, do hereby verify the contents of paras 1 and 4 to 12 above to be true to my

P.T.O.

-: 20 :-

knowledge and information and the contents
of paras-2 and 3 above are believed to be true
on legal advice. I have not suppressed any
material fact.

Ahmedabad.

Dated: 9-6-1989.

H. Chaudhary
9/6

(Applicant)

Filed by Mr. A. M. Sayed
Learned Advocate for Petitioners
with second set & 3 copies
copies copy served/not served to
other side

Dt. 9/6/89 Dy Registrar C.A.T.(N)
Ahmad Bench

No: E/1025/10

Dy. CE(E/W)'s Office,
Sabarmati.
Dt: 25/4/88

NOTIFICATION:

Sub:- Selection Board for promotion to the
NG class III Staff Dy. Shop
Superintendent Scale Rs. 2000.3200(RP)
PLR Group Engineering W/shop, SBI.

-o-o-o-o-o-

1. The selection consisting written test and Viva Voce for the post of Dy. Shop. Supdt. scale Rs. 2000-3200(RP) PLR Group will be held shortly. The following eligible staff should be in readiness for the written test. The date and the time for the written test in the above selection will be advised in due course.

Assessment of Vacancies.

No. of posts. 6

No. of Reserved post for

SC. 1

ST. 1

2. The following Supervisory Staff of PLR Group are eligible for appearing in the written test.

Sr. No.	Name.	Working as
1.	Shri N.R. Chauhan (ST)	Dy. SS(M/W) on adhoc
2.	Shri G.R. Dave	Dy. SS (Mill Wright) on adhoc basis
3.	Shri Chaining Singh M (SC)	Dy. SS(M/W) on adhoc.
4.	Shri Bipinchandra N. Mistry.	Dy. SS(PLR) on adhoc.
5 **		

The above Supervisory staff may be informed accordingly. If any of the eligible employee is not willing to appear in the selection, he should submit his unwillingness within two weeks time.

[Signature]
Dy. CE(E/W) SBI. 25/4/88

C/CE(E)CCG for information.

C/- Sr. DEN(TR)ADI @ SBI for information & necessary action.

C/- MM, AWMs(FBW), TMS, PLR, STR for information.

C/ SS(M/W), Dy. SS(PLR) for information.

C/ The Secretary, WREU/WRMS W/shop B. SBI for information.

C/ DMO/SBI for information and necessary action.

BPG.

- ** 5 Shri Rajkumar S. Ch/man 248 (PLR/PO)
6. Shri Snehal B. Joshi do. 'A' (Sleeper Factory)
7. Shri D. D. Sharma do. (PLR/PO)
8. Shri Satnamsingh I (S). do. (Sleeper factory)

The copy
And
Advised

(22)

Annexure A-II
(21) (13)

WESTERN RAILWAY.

CMM(EN)'s Office,
Sabarnati,

No.E/1925/8.

Dated.13.1.89.

NOTIFICATION.

Sub:- Selection Board for the post of Dy.SS
(STR Group) & (TMS Group & PLR Group)
Scale Rs.2000-3200 (RD-Engg.W/shop-SBI).

Ref:- This office's Notification issued under
letter Nos.E/1925/8, E/1925/9 & E/2025/10
all dated 10.1.89.

1. The Viva voce test in connection with the above
selections which is to be held on 16.1.89 at 10.00 hrs. is post-
poned and will now be held on 24.1.89 at 10.00 hrs in this office.

2. The following employees may please be informed and
spared to attend the viva voce test fixed on 24.1.89 in this
office without fail. None should be granted any leave on this
date.

STR Group.

1. Shri.Vasantrao R.Desai. Offg.Dy.SS(STR)on adhoc basis.
2. Shri.Ravikant singh.R. Offg.Ch/man.'A'(STR)

TMS Group.

1. Shri.D.S.Raghoo. Offg.Dy.SS(TMS/PO)on adhoc basis.
2. Shri.Badriprasad Jaiswal Offg.Ch/man.'A'(TMS/PO)
3. Shri.L.N.Vyas. Offg.Dy.SS(Fdy)on adhoc basis.

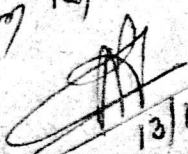
PLR Group.

1. Shri.Rajkumar.S. Offg.Dy.SS(PLR/PO)on adhoc basis.
2. Shri.Snehal B.Joshi. Offg.Dy.SS(Sleeper Factory)SBI.
3. Shri.D.D.Sharma. Offg.Ch/man.'A'(PLR/PO)
4. Shri.Satnamsingh.I(SC) Offg.Ch/man.'A'(Sleeper Factory)
5. Shri.N.R.Chauhan (ST) Offg.Dy.SS(MV)on adhoc basis.
6. Shri.G.R.Dave. -do-
7. Shri.Chainsingh.M.(SC) -do-

CMM(EN)SBI.

- C/- MM(Engg)SBI, XEN(CS)SBI, APO(W) SBI for inf.
C/- SS(STR), SS(STR/PO), Dy.SS(ONG), SS(MV), Dy.SS(PLR), Dy.SS(PLR/PO)
C/- SS (EBW), SS(Yard), SS(TMS/PO), Dy.SS(P&C), Dy.SS(Fdy) for inf.
& n/action.
C/- MS/SBI for inf. & n/action.
C/- OS (G)/ CA/CC(G) for inf. & n/action.
C/- Employees concerned for inf.& n/action.
C/- Secy.WREU/WRMS W/shop Br.SBI for inf.

Nkn13189

Recd on 13/1

13/1

The copy
At work

WESTERN RAILWAY.

Annexure A III

CMM(EW)'s Office,
Sabarmati,

Dated. /9 -1-89

No.E/1025/10

Viva Voce

Sub:- Selection Board for the post of Dy.SS(PLR Group)
Dy.SS(TMS Group), Dy.SS(STR Group) Scale Rs.
2000-3200(RP) Engg.W/shop- SBI.

Ref:- This office Notification No.E/1025/8 of 13.1.89

The Viva voce test in connection with the above selection for the post of Dy.SS(PLR), Dy.SS(TMS) & Dy.SS(STR) Scale Rs. 2000-3200(RP) is postponed till further.

2. The following SC/ST employees who were called for in the written examination ~~off~~ in connection with the selection of Dy.SS as shown against each came to the field of eligibility. The written test was held on 27.7.88 for PLR group, 30.9.88 (for TMS Group) and 30.9.88 (for STR group) respectively.

Sr.No.	Name.	Desig.	Group.
	S/Shri.		
1.	N.R.Chauhan (ST)	Dy.SS(MW) on adhoc	PLR.
2.	Chainsingh M. (SC)	-do-	-do-
3.	Balubhai G.Leova (SC)	Ch/aman 'A' (FDY)	TMS
4.	Ramanbhai.M. (SC)	Ch/aman 'A' (STR)	STR

3. As per extent orders the pre-selection training to SC/ST employees within the field/consideration is to be arranged for Safety Category post. The post of Dy.SS Scale Rs. 2000-3200(RP) is a Safety category post in this W/shop. C of

4. It is hereby mentioned that no pre-selection training was given to above employees before the selection held (Written examination)

5. However S/Shri.N.R.Chauhan, Chainsingh M, Balubhai.G.Leova & Ramanbhai.N. have represented for pre-selection training before appearing in the selection which has not been given earlier.

6. Since pre-selection training to SC/ST employees is obligatory, the results of the written examination in which the above SC/ST employees have appeared are hereby treated as cancelled.

7. These SC/ST employees are being given pre-selection training in connection with the above selection as per extent instructions.

8. On completion of the above training a fresh written examination in connection with the selection of Dy.SS in respective groups will be conducted. Their viva voce test will be taken along with the General Candidates, who have already passed the written test as stated in this office letter under reference.

SBI

CMM(EW) SBI.

C/-MM(Engg) SBI, KEN(CS) /for inf & n/action.
C/-AMM(FBW), (PLR), (STR), AEN(B&F) SBI for inf.
C/-SS(STR/PO) Dy.SS(MW) SS(MW), Dy.SS(PLR), Dy.SS. (PLR/PO) SS(FBW) (Yard)
SS(TMS/PO), Dy.SS(P&C) (FDY) for inf & n/action.
C/-OS(G) for inf. C/-CA for inf. & n/action. C/-Employee concerned.
For inf & n/action. C/-Secy.WREU/WMS W/Shop Br.SBI for inf.
Case No.E/1025/8, E/1025/9.

Nkn

Received on date

A. Chauhan
20/1/89

True copy

A. S. Advaita

(24)
COPY:

No: EP/1025/0 Vol. II

Annexure ^{A-} IV
(17)
H.Q. Office,
Churchgate,
Bombay.

Dt: 3.5.1984.

Sub:- Selection of N.G.Staff, Selection post- Written Examination as part of the Selection Process- Introduction of Objective type of questions.

Ref:- A copy of Rly.Board's letter No: E/(NG)/1-83-PMI--65 (PNM/NFIR) dt.17.4.1984.

In the PNM.Meeting held between the NFIR and the Board on 16./17-9-83 the Federation stated that in the older age group the capacity of the employees to answer the written papers gets reduced though they have adequate knowledge of work gained through their experience etc. Thus, Junior employees tend to score over their seniors in the written test held for Selection post. They, therefore, suggested that the qualifying marks prescribed for being eligible to be called for Viva-Voce test and also the overall pass percentage of marks for being empanelled might be reduced.

2. The matter has been considered by the Ministry of Railways . It will not be feasible to relax the rules regarding the written examinations (wherever prescribed) for promotion to selection post. However, it may be possible to combine questions regarding requiring narrative answer with those of an objective types. The advisability of introducing objective type questions has accordingly been considered taking into

....PTO....

the views expressed by some of the Railway Administration. It has now been decided that wherever ~~the~~ written test is held for promotion to the higher grade selection post in a category, objective type of questions may be set for about 50% (Fifty percent) of the total marks for the written test. The remaining question could continue to be of the (conventional) narrative type. It may be made clear here that the figure of 50% for objective type of question is intended to be for guideline only. It should not be taken as constituting an inflexible percentage.

True copy
And
forward

A
Annexure V
18

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Written test for Deputy Shop Superintendent scale
S. 2000-3200(RP) - Plant Repair Group -

Date: 27.7.88
Time: 3.00 hrs.
Marks: 100

- Note :-
- 1) Answer Seven Questions. Questions No. 1, 5, 9, 12 & 13 are compulsory.
 - 2) Attempt any other two questions but not more than one from any section.
 - 3) Each question carries marks as indicated ^{against} each.
 - 4) The answers should be either in English or Hindi.

..

SECTION - I

- Q.1 Work out the RPM and Time required, on Lathe Machine, for Turning/Machining a 8" dia M.S. Bar to the size shown in the accompanied sketch at -

Marks

16

Cutting speed = 90 ft. per minute
Feed = 0.01 inch per revolution.
Depth of cut = $\frac{1}{4}$ inch.



$$\text{Cutting speed} = \frac{\pi d n}{12}$$

$$\pi = \frac{22}{7}$$

d = diameter of bar in inches
n = no. of revolutions.

- Q.2
- a) Describe in detail the (manufacturing) operations for manufacturing a rivet forging dies. 12
 - b) Specify the steel to be used, heat treatment to be given and hardness required.

- Q.3 Explain the different between any six of the following. 12

- a) Jigs, Fixtures and Template.
- b) Annealing and Normalising.
- c) Hardening and Tempering.
- d) Cast iron and Steel.
- e) Rock well Hardness and Brinell Hardness.
- f) Centre lathe, Capstan lathe & Turret lathe.
- g) Whitworth Threads and Metric Threads.
- h) Tolerance and Allowance.

- Q.4 What do you understand by cutting rakes of tools 12
What is tap rake for cutting the following -

- a) Mild steel
- b) Rail steel
- c) Copper
- d) Aluminium.

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SECTION - II

Marks

- Q.5 ✓ a) What is difference between breakdown maintenance, Scheduled maintenance and preventive maintenance. 16
- b) Draw a scheduled maintenance chart for any one of the following -
- i) Flash butt A.I. Welding Plant.
 - ii) Planer machine.
 - iii) 550 cfm. Reciprocating Air Compressor.
 - iv) Diesel Engine Driven Jeep.
- Q.6 ✓ A report is received from the Shop complaining that the tool of planer is chattering while cutting mild steel bracket. What points will you check and the suggest remedial measure to be taken against each. 12
- Q.7 ✓ What is the normal air consumption in cfm. for the following Pneumatic tools - 12
- a) Rivetting hammer.
 - b) Grinder.
 - c) Drilling machines.
 - d) Impact wrench.
 - e) Holder on.
 - f) Chipping hammer.
- Q.8 Explain the difference between (any six of the following) 12
- a) Spark ignition engine and Compression ignition machine.
 - b) Electric hoist and SOF crane.
 - c) Shearing & Punching machine & Guillotine shearing machine.
 - d) Automatic trimming and manual chipping of upset metal.
 - e) Manual arc welding and Submerged arc welding.
 - f) SAE 10 Lubricating oil and Servo system 311 oil
 - g) Lithium based grease and Calcium based grease.
 - h) Duties of a Mistry and a Chargeman 'C' working under Dy. SS.

SECTION - III

Mark

- Q.9 A new machine is to be procured and installed in the workshop. Describe in detail, various items you will consider for framing an estimate for its procurement and installation. 16
- Q.10 Draw out a broad specification of a universal milling machine or a lathe machine to be procured. 12
- Q.11 Explain in detail the procedure followed in processing work order, from the time it is received from the party to the time the product is finally despatched to the party. Also give the names of various forms used. 12

SECTION - IV

- Q.12 Please indicate the correct answer against each item 20
- i) Oil used for rotary compressor is (SAE 10, Servo system 311, Alpha 717, DTE heavy medium)
 - ii) Permissible impurity in the hydraulic system of the ESSAB Flash Butt Welding Plant is _____ micron. (0.05 , 0.5 , 5.0 , 5.5)
 - iii) Clamping pressure in new Flash welding Plant is _____. (186 T, 196 T, 206 T, 256 T.)
 - iv) All hydraulic flexible hose pipes are to withstand a pressure of _____ bars. (120, 160, 180, 200)
 - v) Percentage of carbon in cast iron is _____. (0.05 to .59 , .75 to 0.90 , 1.5 to 3.5)
 - vi) While drilling deep holes in copper job coolant used is _____. (Cutting oil, Kerosine oil, Paraffin , Water)
 - vii) Forging temperature of Mild steel is _____ °C. (750, 850, 950, 1050)
 - viii) Cooling media for hardening of high speed steel is _____. (Water, Air, Oil, Salt water)
 - ix) Compression ratio of a Diesel engine is _____. (1:7 , 1:16 , 1:22 , 1:30)
 - x) All purchases of moveable properties costing more than Rs. _____ through authorised dealers are to be reported under service conduct rules. (Rs. 500, Rs. 1500 , 2500 , Rs. 3500)
 - xi) Max. Insurance Cover under DLI for Group 'C' employee is Rs. _____. (Rs. 2500, Rs. 5000, Rs. 10,000, Rs. 20,000)
 - xii) Letter received in Hindi should be replied in _____. (English, Hindi, Gujarati)
 - xiii) Targets laid down for use of Hindi in any correspondence from Central Govt. Offices located in 'B' Region to Central Govt. offices located in 'A & B' region is _____ %. (40 % , 50 % , 60 % , 70 %).

A

Contd. Q.12 of section IV

- xiv) Dy. Shop Supt. of a shop is empowered to impose a maximum penalty of _____ on Group 'D' employees.
(Removal from service, Censure, Stoppage of increment with future effect, Nil)
- xv) Dy. CE (EW) is empowered to procure Tools & Plants item costing upto Rs. _____
(Rs. 2500, Rs. 5000, Rs. 7500, Rs. 10000 .)
- xvi) Compensatory rest has to be given to a worker within _____ days of the actual rest day.
(3 , 7 , 15 , 30 days)
- xvii) Factory worker is to work in factory _____ hrs. in a week.
(68 hrs., 58 hrs., 48 hrs., 38 hrs.,)
- xviii) worker refusing to carry out allotted work can be taken under _____.
(No work no pay, DAW , Booking idle time, DIR)
- xix) Dy. CE (EW) is empowered to place supply orders for spare parts upto Rs. _____
(Rs. 500, Rs. 750, Rs. 1500, Rs. 2500)
- xx) The amount of final withdrawal from P.F. admissible in case of self /family sickness is Rs. _____ or Rs. _____ whichever is less.
(Rs. 2000, Rs. 1000, 1/2 of the amount of PF balance, six month's pay, ten month's pay).

Q.13

A group 'D' employee has assaulted a Mistry under you. Please explain what action you will take. Describe the procedure to be followed for imposing a major penalty under D.A.R.

8

...

True
Ans
Advocate

Copy of CM(2) CCG's letter No.E/E/1025/5/8 dt.26.5.89
addressed to CM(EW) SBI.

.....

Sub: Selection Board for promotion to NG Class III
staff - Shop Supt. Dy.SS scale Rs.2000-3200(RP).

Ref: Your letter No.E/1025/10 dt.15.3.89.

Case has been examined and it has been decided
by the competent authority that the case may now be
dealt as under:-

- 1) SC/ST candidates may now be given the requisite training, treating their failure in the written test as void.
- 2) There are no grounds to declare the failure of other candidates, if any as void and therefore the result of the other candidates who passed in the written test are not required to be cancelled.
- 3) Subject to the above, there should be no objection to continue the Selection proceeding.
- 4) Responsibility may be fixed for the lapse on the part of staff and action taken against the defaulter should be advised to this office within 15 days.

True copy
Ans
Advocate

Western Railway

C.M.(S)'s Office,
Sabarnati.

No. 4/1025/10

Dated 2/12/88.

NOTIFICATION

Sub: Selection Board for promotion to the NE Class III
Supervisory staff - Dy.SS(PLR) Group scale Rs.2000-
3200(RP) - Engineering Workshop - Sabarnati.

Ref: this office Notification No. 4/1025/10 dt.25.4.83 & 2.7.88

As a result of the written test held on 27.7.88 in connection
with the selection for the post of Dy.SS(PLR Group) scale
Rs.2000-3200(RP), the following employees have qualified for
calling them for the viva-voce test.

- | | |
|------------------------|--|
| i) S/Shri Rajkumar, S. | Offg.Dy.SS(PLR/PO) on adhoc basis |
| ii) Snehal B.Joshi | Offg.Dy.SS(Sleeper Factory) - do - |
| iii) D.D.Sharma | Offg.Chargeman 'A' (PLR/PO) SBI |
| iv) Satnamsingh S (SC) | Offg.Chargeman 'A' (Sleeper Factory) SBI |

The following employees who have also appeared in the written
test are also being called for the viva-voce test for the post
of Dy.SS(PLR Group) scale Rs.2000-3200(RP) on the basis of marks
obtained by them taking into account the seniority marks in terms
of Aly.Board's letter dt.5.12.84 received under HQ Office letter
No.4P/1025/2(PS No.319) dt.22.12.84. They have not qualified
in the written test with requisite marks but are being called
for viva-voce test taking into account the seniority marks.

- | | |
|------------------------------|-------------------------------|
| 1. S/shri N.R.Chauhan (ST) ✓ | Offg.Dy.SS(MW) on adhoc basis |
| 2. G.R.Dave ✓ | - do - |
| 3. Chainsingh M (SC) ✓ | - do - |

The date of viva-voce test of the above employees will be advised
in due course.

CWM(EN) SBI.

C/- CWM(Engg)SBI, XEN(CC) SBI, AWM(PLR) SBI for inf.

C/- SS(MW), DY.SS(PLR/PO), DY.SS(PLR) SBI for inf.

C/- Secretary WREU/WRMS (W/shop Br.) SBI for inf.

C/- Employees concerned, for inf & n/a

C/- Secy. WREU/WRMS w/shop Br. SBI for inf.
krm 2.

True copy
Has
to be made

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WMS/T.T./SHI.

10.1.89.

To

The GM(S/W)/SHI.

Dear Sir,

Subject:- Selection Board for promotion to the NG Class III - Supervisory staff - Dy.SS(PLR), (TMS) & (STR) Group, scale Rs.2000-3200(RP) - Engineering Workshop, Sabarmati.

Reference:- Your notification No. 3/1025/10 dt. 2.12.88 of Dy.SS(PLR) and 4/1025/9 dt. 2.12.88 of Dy.SS(TMS) & 5/1025/8 dt. 6.1.88 of Dy.SS(STR).

-.-.-.-

All the result declared in the above written test one indicating that the persons declared suitable one working in the Production Office or known to the selection committee members being close to them directly and indirectly.

On the above fact certain candidates have represented against the evaluation of the papers.

It is our(Sangh's) observation that this could not happened if the equal opportunity to the Supervisor staff one given to know the working of all the sections by rotating them from one place to another for the proper knowledge. This point was brought to the notice of the Administration through PNM but no attention is paid to the suggestions.

In addition to the above there is favourison to the certain staff who have helped the committee members in the domestic and social works and this truth is known to every one and creating dis-satisfaction among the supervisors who are working on shop floor from the begining of their carriers and their services are appreciated in term of production, maintainance developments and new achievements resluting into no.of awards they got in their service carrier. This type of ~~unfair~~ result which shows the favourison only to the particular candidates who are working in the production office and having contacts with the officers directly every now and then and with other officers who are meeting them on their visit to this Workshop, thus the persons declared suitable in the written test are very well known by their names and hand writting to the selection committee members. This is indirect help to suitable candidates.

....2/-

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In spite of this the procedure defect is also come to light which is not observed before holding the selection.

- 1) The Dy.SS post are Safety post.
- ii) The reserve committee should be given opportunity by conducting pre-selection training, before holding the written test examination. This fact is ignored and their opportunity have been denied. This only point demand cancellation of written test and a fresh opportunity for parting pre-selection training to the eligible candidate is essential.
- iii) The seniority factor is important for Class III to Class III promotion and the paper should have been set according to the laydown procedure by covering minimum questions of descriptive nature and 60% paper should be of objective type so that the candidates who are not having enough opportunity to write, can attempt to become qualify.
- iv) The model answer book should have been given to evaluating officer with the assistance of that he can evaluate the answer book which has not been done in this selection.
- v) A doubt has been raised in the mind of the candidate in general that one of the candidate who's academic qualification is not of even primary standard has been ~~declared~~ declared successful and those who have higher qualification than higher secondary are unable to succeed in the written examination. This is one of the point which irritates the candidates that the members who has evaluated the papers may not be knowing the actual functioning of the workshop and the working of the W/shop procedure and this might have caused damage to the senior person

...3/-

(26)

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In view of the above points, it is once again requested that this whole issue may be reviewed in the light of the above errors and take suitable action in the interest of Workshop harmony and advise to Sangh.

sd/-
(LEKHARAM B)
Secretary, WMS/ Workshop Br.
Sabarmati, Ahmedabad-19.

✓ - The General Secretary, WMS/ COO, Bombay, W.Fly. to initial the matter at HQ level with General Manager as the proper procedure for selection has not been adopted.

The copy
H/S
Advocate

(27)

Annexure A-IX

Representation sent by WRMS on 25-2-89

To,
The General Secretary
WRMS CCG Bombay WR.

Respected Sir,

Subject:- Selection board for the post of Dy.SS (PLR) (TMS)
(STR) Group Scale Rs. 2000-3200 (RP) Enge. W/Shop, SBI.

Reference:- Your letter No. WRMS/SBI/QG/dated 6-2-89.

As desired the complete brief on the above selection procedures along with the lapses in holding the selection are given below.

- 1.(i) The first notification of ~~axis~~ assesment of vacancy was notified vide Dy.SS(E/W)SBI No. E/1025/10 dated 25-4-88 for PLR Group No. of post are six(6) one(1) ~~axis~~Eight reserve for SC and one for ST No. of persons called Eight. Out of that (2) Two SC, One (1) ST and five are general and out of them eight four are working as Dy.SS in adhoc.
- (ii) The notification No. E/1025/8 dated 2-9-88 was published and assesment of vacancies are two(2) in STR Group One (1) reserve for SC No. of person called one four.
- (iii) The notification of assesment of vacancies for TMS Group vide letter No. E/1025/9 dated 30-7-88 and the assesment of post are (3) three, one(1) reserve for SC. The copy of these notification have already been sent to you through a special messenger on 25-1-89
- (2) The written test was conducted on 27-7-88 for PLR Group and on 30-9-88 and 17-11-88 for STR Group similarly on 8-9-88 for TMS Group.
- (3) The results of the written test was declared of these group in which the junior persons were declared qualified and the senior

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(31)

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persons were declared fail. After going through these results of all the three groups the sangh felt the persons who are not having shop experience but having the lission with the members of the selection committee i.e. the then Dy. CE sleeper factory have passed the persons in all the three groups by their personel contacts those working as the shop floor have been declared un qualified. since the selection is not questionable the sangh studied the whole procedures to find out procedural flow in the course of holding the selection for these groups so that senior persons working in the shop floor can be protected by allowing them an other fair chance. by cancelling this selection and nominating a fresh neutral selection committee members.

The procedural flow:

- A) The post of the Dy SS is a safety post.
- B) The pre selection training to the reserved community is obligatory but not fulfilled before holding the written test.
- C) The senior persons are working on ex-cadre posts outside the W/Shop are not called for this selection with the plea there lien have been cut off from this W/Shop but no such orders or notification has been issued by the Dy. CE/CWM SBI.

This matter was taken up with MM by sangh by writting letters on 10-1-89 and 23-1-89 highlighting the above procedural lapses. On this CWM has cancelled the above written test partially i.e. canceling the written test by giving names of the failed community persons as stated in para (V) and VI for notification No. E/1025/10 dated 10-1-89 for all the three groups. as per the Rly. Boards letter No. E(NG)/167-(PM)-1/47 dated 2-2-1969 the

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whole selection is required to be cancelled and fresh ~~ix~~ selection is required to be conducted after full the requisite requirement of the safety categories.

The CWM has further complicated the issue by issuing a preselection letter No. E/1025/31 (A) dated 20-2-89 by including the name of a persons in the pre selection training but his name is the notification for cancellation is not appearing. This notification is again misleading and confusing to all deserving candidate as well as the worker as a whole.

This type of letter reflected lack of knowledge of rules for conducting the selection and complicating the matters without overcoming the earlier procedural mistakes.

In view of the above you are requested to approach to GM office in the interest of ~~services~~ ^{Senior} persons.

Thanking you.

Yours faithfully,

sd/-
(LEKHRAM.B.)

True copy
As
Advocate

730

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A.No.240 of 1989

N R Chauhan & Another

...Applicants

V/s.

Union of India & Others

...Respondents

WRITTEN STATEMENT

Respondents humbly beg to file written statement

to the application as under:-

1. Contents of para 1 to 3 need no reply.
2. Regarding para 4.1 respondents rely on the service record of the applicant. It is stated that the applicant No. 1 is ST candidate and applicant No.2 is SC candidate. It is stated that the applicants are holding substantive posts of Chargeman 'A' Scale Rs.1600-2660(RP) at the time of filing the application. It is stated that the applicants are permanent employees and were promoted on ad hoc basis as Dy.Shop Supdt. (PLR) Scale RS.2000.-3200(RP) Against Roster points reserved for ST & SC respectively. At the time of filing the present application applicants were working , ,2/-

H/O
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Deputed
25/4/90

I shall send
copy to the
other side
WJ
25/4/90

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as Dy .Shop Supdt. on ad hoc basis in the office
of the Chief Works Manager-Respondent No.3 .

It is stated that the post of Dy.Shop Supdt.
is a selection post.

3. Regarding para 4.2 respondents rely on ture
and proper interpretation of para 209 to 213 of
the Indian Railway Establishment Mannual. It is
not disputed that ~~thex~~ posts are classified as
selection or non selection posts in class III category
non gazetted staff.The selection posts are required to
be filled in as per Rules and the procedure laid
down for that purpose. It is stated that selection
board is also appointed for that purpose. The
employees are called for selection as per their
eligibility under the rules. Normally the employees
from the Based cadre are called for the selection .
In certain circumstances employees one grade
below are also called for selection provided they
are eligible as per rules.It is not disputed that the
panel of selected employees is to be approved by
the competent authority which ordered the selection

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and constituted the selection board. It is not disputed that the applicants have filed the present application with regard to selection for the post of Dy. Shop Supdt. scale Rs.2000-3200(RP), Plant Repair Group initiated vide letter No.E/1025/10/ dt.25.4.88. It is not disputed that the selection consist of written test and vivavoice. Respondents rely on the notification dt.25.4.88 produced by the applicant at annexure A/1. It is not disputed that at the time of filing the present application the selection in question was in process and only written test was completed and vivavode was to be held. It is stated that as per the extent instructions issued under GM(E)CCG's letter No.EP/1025/0 Vol.III dt.11.11.87 the employees ^{are} to be considered only one grade below the grade for which the selection is to be held. It is stated that the post of Dy.Shop Supdt. is a Safety Category and the employees, one grade below, have been called accordingly.

4. Regarding para 24.3 it is stated that selections are held as per the procedure laid down in chapter-II S.'B' of Indian Railway Establishment Mannual and in various administrative instructions issued by the

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Ministry of Railway from time to time. It is stated that GM(E) CCG under his circular issued vide letter No. EP. 1025/22 dt. 20.5.83 has advised that if any lacuna or irregularity in holding of a selection is observed it should be brought out immediately after the selection has ~~been finalized~~ been intimated and local administration would discuss the issue involved within a period of 15 days on receipt of representation with a view to resolve the issue raised in the representation. It is stated that no representation was received from any employee till the result of the written test for the post of Dy.S.S. (PLR) was declared on 2.12.1988.

5. Contents of para 4.4 are not true and are denied.

It is denied that there are several flaws in the matter of selection which is under challenge/the /in present application as alleged. It is denied that there are flaws in the selection as pointed out by the applicants in sub-para (i) to (x) as alleged. As stated hereinabove no flaws were brought out by the applicants after initiation of the selection ..5/-

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as alleged by the applicants.

(i) Regarding para 4.4(i) it is stated that the post of Dy.Shop Supdt. has been notified as a Safety Category Post for Civilian Dept. ^{Engg.} Bridge Workshop, Sabarmati in terms of GM(E)CCG's letter No. WEP/220/10/1 dt.14.6.82 and accordingly the selection was initiated and held in the workshop at Sabarmati. It is not disputed that conditions prescribed for selection for safety category are to be observed. It is not disputed that no pre-selection training was given to ST/SC candidates before ^{said} holding the selection. It is submitted that the said fact had gone out of sight being safety category post. The said fact was also not brought out by St/SC candidates or recognised Union till the result of the written test. However on receipt of a representation after the declaration of the result of the written test the vivavoce was kept pending and the issue ^{was} referred to the Gen. Manager, W. Railway, Bombay who is the competent authority for examining the issue and for final decision. The decision

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of the General Manager (E) Churchgate was received vide letter No.E/e/1025/5/8 dt. 26.5.89 .It is not disputed that the applicants have failed to qualify in the written test but it is denied that they have failed only because they were not given pre-selection training.It is stated that SC/ST candidates who failed in the written test have now being given training as per the aforesaid ~~decision~~ decision of the Gen.Manager,Bombay and on completion ~~of~~ for taining/were called for the written test which/they was held on 25.7.89.It is stated that all the SC/St candidates who were eligible have appeared in the written test.Thus the lacuna of not giving pre-selection training to SC/ST employees before the selection has been cured .

(ii) Contents of para 4.4(ii) are not fully true and are not admitted. Respondents rely on the circulars issued by the Railway Boards as well as the H.Q.Office on the subject of selection and fix guide lines for setting of the papers. It is stated that the H.Q.Office circular issued under

letter No.E/e/1025 /0 Vol.II dt.3.8.84 in concluding
para ^{has} ~~as~~ stated that the figure of 50% for objective
type of question is intended to be guide line only.

It should not be taken as constituting and inflexible
percentage . Keeping in view the aforesaid instruc-
tions 20 out of 100 (20/100 ,marks) provided in the
question paper of the written test held on 27.7.88
does not violate the instructions issued by the
H.Q.Office.The aforesaid circular does not state
anything about the age group.

(iii) Contents of para 4.4 (iii) are not fully
true and are not admitted. It is stated that a
representation received from the applicants and
a recognised Union was forwarded to the H.Q.Office
vide respondent no.3 ^{letter No.3} letter No.E/1025/10/
dt.15.3.89 bringing out the clear facts of the issue.
It is not disputed that at the time of filing the
application selection was not finalised and no
panel was declared .It is stated that the GM(E)CCG
gave his decision vide letter No.E/E/1025/5/8 dt.

26.5.89 stating interalia that SC/ST candidates

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may now be given the requisite training, treating their failure in the written test as void, that there are no grounds to declare the failure of other candidates, if any, as void and therefore the result of the other candidates who passed in the written test are not required to be cancelled, and that subject to the above, there should be no objection to continue the selection proceeding.

It is not disputed that all SC/ST candidates who failed in the written test were required to be given requisite ~~pre~~ selection training. Accordingly they have now been given the training as advised vide respondent no.3's letter No.E/1025/31 dt.5.6.89. It is denied that any solution without cancelling the entire selection proceeding will be wrong as alleged. It is denied that for the same reason and basic irregularity the selection the entire proceedings are null and void as alleged. It is stated that a fresh written test for failed SC/ST candidates after imparting training was conducted on 25.7.89. The competent authority has also decided

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that there are no grounds to declare the failure of other candidates as void and therefore the result of other candidates who passed in the written test are not required to be cancelled and the selection proceedings are to be continued. Thus there is no likelihood of extending the benefit to the other candidates and injustice to SC/ST candidates.

(iv) Contents of para 4.4(iv) are not fully true and are not admitted. On finalisation of the selection the ~~the~~ approved panel is required to be notified. It is denied that a selection is required to be finalised within 6 months and if the period of 6 months has passed the test assumes character of a fresh test and those candidates who have failed become eligible to appear again at the test on expiry of a period of 6 months from the date the result is declared. It is not disputed that in the present case the written test was held on 27.7.88 and the result was declared under C.W.M.(EW) SBI's Notification issued under letter No.E1025/10 dt.2.12.88. On declaration of the result of the written test the applicants and

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both the Trade Unions were not satisfied with the above result and have represented to the administration. The dispute was then referred to H.Q. Office who finally conveyed its decision on 25.5.89 .

Accordingly training has been given to those SC/ST candidates who have failed in the written test in July 1988 , ~~were given training~~ and were asked to appear again in the fresh written test which was conducted for them on 25.7.89. Both the applicants have appeared in the said fresh written test. It is denied that merely because about one year has passed and the proceeding are under process , which is on a wrong footing and therefore the whole selection is to be nullified as alleged.

V) Regarding para 4.4(v) it is submitted that seniority of eligible employees does play an important role in the matters of promotion . An employee who is eligible to appear in a selection or to be considered for a non selection post is required to be called for the selection or to be considered for non selection post as the case may be according to his

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seniority .A senior employee who is not placed on the panel for promotion to the higher post or who is not considered fit for promotion to the higher post need not be promoted to the higher post and a junior person found suitable may supersede such senior person. It is not disputed that out of 8 persons only four persons passed the written test held on 27.7.88 and the other 4 persons failed to pass the written test. As regards the date of adhoc promotion of the applicants as well as shri G R Dave and B N Mistry to the post of Dy.S.S.respondent rely on the original orders and the service records.The averments of the applicant that there is no complaint or adverse remarks in regard to their working are not relevant. The fact is that the applicants have failed to secure prescribed minimum marks for passing the written test.As stated hereinabove the applicants have been called for viva voce vide CWM(E)SBI's letter No.E.1025/8 dt.13.1.89 .A copy of the said letter is produced herewith as Annexure R/1.

(vi) Contents of para 4.4(vi) are not true and are not admitted. It is stated that the answer books have

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been corrected by the members of the selection board who are nominated by the competent authority as per rules. As stated hereinabove the post of Dy. Shop Supdt. has been notified as Safety Category post for Civil Engineering Department, Bridge Workshop and is not based on Mechanical Department. The Competent Authority appoints members of the selection board who are qualified and eligible to be appointed as members.

(vii) Contents of para 4.4(vii) are not true and are denied. It is stated that the candidates who were eligible to appear in the selection of Deputy S.S. were called and those who secured minimum prescribed marks in the written test were declared successful therein. The result of the written test is declared on the basis of performance of the candidates in the said test irrespective of their qualifications.

viii) Regarding para 4.4 (viii) it is submitted that candidates three times the no. of vacancies assessed are required to be called for the selection as per rules. While calling such candidates the employees working in the

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Grade immediately below the grade for which the selection is to be held are to be considered first and if adequate candidates are not available in that grade the employees one grade below can be considered as per rules. It is stated that the candidates for appearing in the selection were called vide CWM's office letter No.E/1025/10 dt.25.4.88 keeping in view the instructions issued by GM(E)CCG's letter No.EP/220/10/1 dt.16.10.82 in accordance with the seniority declared under CWM's office letter below no. ^{2/1030/2 vi U} dated 28.11.86 were called by the respondents. A copy of the aforesaid GM(E)CCG's letter No.EP/220/10/1 dated 16.10.82 is produced herewith as Annexure R/2. It is stated that the lien of the staff working out of the workshop has been suspended and hence they were not called for the selection. No complaints are received from the staff. It is stated that only 8 candidates were found eligible to appear for the selection of Dy.S.S. and were called by the respondents for the written test.

(ix) Regarding para 4.4 (ix) it is stated that

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out of 6 vacancies, one vacancy is reserved for SC and one vacancy is reserved for ST. The employees at Sr. 1 to 4 have failed and the employees sr.No. 5 to 8 have passed. It is denied that if the written test already held without pre-selection training is not cancelled, the employee at sr.no.8 will have undue advantage of being ~~empaneled~~ empaneled. It is denied that the employees at sr.no.1 and 3 will have great loss despite reservation in their favour. As stated hereinabove the SC/ST Employees including the applicants who failed in the written test are given training and a fresh written test has been held on 25.7.89. The said employees will maintain the seniority on passing the written test to become eligible for ~~vivavode~~. Thus the employee at sr.no.8 who is also a sc candidate will not get any undue advantage over the employee at sr.no.1 and 3.

(x) Contents of para 4.4 (x) are not fully true and are not admitted. As stated hereinabove the representation was made by the applicant and the Union only after the result of the written test was

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declared .The matter was referred to H.Q.Office and on receipt of the letter dt. 26.5.89 from GM(E)CCG's further action was taken declaring the result of 'SC/ST' candidates in the ^{test} written as void and for giving necessary pre-selection training to such employee .It is not disputed that the result of the General Candidates who had passed was not declared as void . Similarly the result of the General candidates who failed in the written test was also not declared as void .The SC/ST candidates have now been given pre-selection training and again called for the written test and thereafter in ~~viva voce~~ vivavoce on their passing the written test. Thus sufficient opportunity has been given to SC/ST candidates as per extent instructions and no injustice has been done to them. It is denied that the position of SC/ST candidates is more ~~awk~~ awkward.

6. ~~xx~~ Contents of para no.5 are not true and are denied. It is denied that any of the grounds mentioned in para 5 for challenging the action exist.

(a) Regarding ground (a) it is submitted that SC/ST candidates who failed in the written test

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have been given pre-selection training and thereafter called for written test. For selection/ written test only one paper is set. When written test is held again new paper is required to be set.

(b) Contents of ground(b) are not true and are denied. It is denied that the decision taken vide GM(E) CCG's letter dated 26.5.89 (Annexure A/6) and follow up action by the respondent no.3 are wrong and misconcieved. Since there was an irregularity / lacuna in not giving pre-selection training to SC/ST candidates ,their failure in ~~wir~~ written test was treated as void. The result of the other candidates who passed the written test was not required to be cancelled and there were no grounds to declare the failure of other candidates ifa ny, as void. It is obvious that there would be a new question paper for SC/ST employee when they appeared in the written test after training. It is denied that a new question paper can be set only in a supplimentary test prescribed solely for absentees in the original test as alleged.

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(c) Contents of ground (c) are not true and are denied. The question of asking the applicants to appeared at the vivavoce does not arise as the applicants have not secured minimum qualifying marks in the written test. Hence the ground taken by the applicants is misconceived and not tenable at law. Only those candidates who passed in the written test are called at the vivavoce .

(d) Contents of ground (d) are not fully true and are not admitted. The letter dt.19.1.89 of respondent no.3 (Annexure A/3) states that no pre-selection training was given to four candidates belonging to SC/ST community .Letter dt.26.5.89 from GM(E)CCG (Annexure A/6) states that SC/ST candidates might be given the requisite training, treating their failure in the written test as void and that there are no grounds to ~~declare~~ the declare the failure of other candidates, if any, as void and therefore the result of the other candidates who passed in the written test are not required to be cancelled. It is denied that the procedural irregularity of not giving pre-selection training to SC/ST

candidates would rendered ~~the~~ the proceeding void

ab-initio impart and no modification can correct

the same as alleged. The selection is ordered to be continued rightly by the H.Q. Office.

(e) Contents of ground (e) are not true and are

not admitted. It is denied that the training now

proposed for SC/ST candidates will not be a pre-selection

training in ^{true} ~~two~~ sense as alleged. It is denied that

the preselection training to such employees can be

said only when one question paper is to be attempted

by general community candidates and ~~2/3~~ SC/ST candidates.

It is denied that when the training of two SC/ST candidates

is left out it is to be imparted first and

fresh written test of all the eligible candidates of

general as well as SC/ST communities is required to be

conducted. It is submitted that decision taken by

the H.Q. Office cancelling the written test of

the failed candidates belonging to SC/ST community is

legal and proper and such candidates can be asked

to appear ~~in~~ in the written test after giving them

pre-selection training .The irregularity ..19/-

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of not imparting pre-selection ~~training~~ training

has been cured by imparting such training and thereafter holding written test for them.

(f) Contents of ground (f) are not true and are denied.

It is denied that the administration can not cancel//
the results partially. It is denied that the ~~xxx~~ whole
list of persons who have passed in the written
examination including general candidates is required
to be cancelled in terms of railway Board's letter
No. E(NG)167-PM -Y/47 dt. 5.2.69 and fresh selection
including written test for all eligible candidates
is required to be ordered. It is submitted that
the applicants have not produced the copy of
the Railway Board's letter ~~xxx~~ dt. 5.2.69 along with
the application. Respondents, however, rely on
true and proper interpretation of the said letter
as and when produced. The action of the respondents
cancelling the result of written test partially is in
order.

(g) Contents of ground (g) are not true and are
denied. It is denied that a separate selection..20/-

is to be held for SC/ST candidates as designated by the respondents, and it would create class war between two communities and if the applicants succeed in selection, all other staff will finger towards them as supervisor of relaxed standard with no capability as alleged. As stated hereinabove the result of written test has been treated as void partially and the same selection is continued. The averments made in ground under reply are misconceived.

(h) Contents of ground (h) are not true and are not admitted. It is denied that the eligible candidates including the applicants were not supplied with the syllabus for the examination prior to holding the selection as alleged.

It is stated that the syllabus is notified as per rules.

(i) Contents of ground (i) are not true and are denied. It is denied that the training proposed to be imparted for 15 days to the applicants at this stage is unfair as alleged. It is not admitted

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that in other units of the departments, pre-selection training for a duration of one month is given in the case of Safety categories as alleged.

It is ~~xx~~ stated that the period^{of} training has been fixed by the administration for each post of safety category and there is no rule saying that training of one month is required to be given in case of all safety category post. Training of 15 days prescribed for the applicants is proper. There is no illegality in fixing the period of training for the applicants.

It is denied that the applicants have a prima facie case.

It is denied that the proceedings of selection, after training, are not free from defects fundamentally as

alleged. It is denied that the decision taken by

the respondents no.3 and GM(E)CCG to continue a

selection and finalise it/ based on extraneous/is

considerations as alleged. There is no question of finding

any reasons obviate the essential requirements of

selection viz. pre-selection training to SC/ST candidates.

It is denied that the whole proceeding of selection need

to be cancelled and not partly to get rid of ..22/-

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the procedural error as alleged. It is denied that unless the proceedings are cancelled/stayed as ordered by the respondent it will cause irreparable damage to the applicants as alleged. It is denied that the remedial~~x~~ action suggested by the respondents vide their letters dt. 19.1.89 and 26.5.89 are wrong, arbitrary, irrational and discriminatory. It is denied that the entire proceedings are required to be quashed for the irregularity as the proceedings are defective ab initio as alleged. It is denied that there is any violation of articles 14 & 16 of Constitution of India.

7. Contents of para 6 & 7 need no reply.

8. Applicants are not entitled to any of the reliefs claimed in para 8 of the application. It is submitted that after imparting pre-selection training to SC/ST candidates who had failed in the written test, including the applicants, written test was held and those who pass^d in the written test were called for the viva voce along with other candidates who have passed in the written test earlier. It is submitted that the applicant No. 1 Shri N.R. Chauhan has passed. ..23/-

the selection of Dy.S.S. and has been promoted as Dy.S.S. scale Rs.2000-3200(RP) on regular basis against the deficiency of ST/and continued to work under FCO/PLR in the same scale and pay vide office order No-320-No.

E.839/2/3 Vol.I dt.2.9.89 issued by the respondent No.3. A copy of said memorandum is produced herewith as annexure R/3 .Applicant no.1 therefore has not cause of action to continue this application.


9. Applicants are not entitled any of the interim reliefs ~~xxxxxx~~ claimed in para 9 of the application.

In view of what is stated above the application may be dismissed with cost.

Ahmedabad

Dt. .10.1989


7/6 25-4-90


Chief Works Manager
Western Railway, Sabarmati.

I, K R Subba Rao ,working as Chief Works Manager, Western Railway, Sabarmati, do hereby state that what is stated above is ~~xxx~~ true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Ahmedabad

Dt. .10.89


Chief Works Manager
Western Railway, Sabarmati.