

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A. NO.** 408 OF 1993

**~~T.A. NO.~~**

**DATE OF DECISION** 09-05-1995

Shri S.M. Gehani **Petitioner**

Mr. M.S. Trivedi **Advocate for the Petitioner (s)**

**Versus**

Union of India & Another **Respondent**

Mr. A.S. Kothari **Advocate for the Respondent (s)**

**CORAM**

**The Hon'ble Mr. N.B. Patel, Vice Chairman**

**The Hon'ble Mr. K. Ramamoorthy, Member (A)**

**JUDGMENT**

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

/ NO

Shri S.M. Gehani,  
C/O M.S. Trivedi,  
Advocate, E/4 Shivani Apartment,  
B/H Sahajanand College,  
Ahmedabad-15.

..... Applicant

(Advocate : Mr. M.S. Trivedi)

Versus

1. Union of India,  
Through The General Manager,  
Western Railway,  
Churchgate,  
Bombay.

2. The Divl. Rly. Manager (E),  
Western Railway,  
Pratapnagar,  
Baroda.

..... Respondents

(Advocate : Mr. A.S. Kothari)

J U D G M E N T

O.A. No. 408 OF 1993

Date : 09-05-1995

Per : Hon'ble Mr.K. Ramamoorthy, Member (A)

The present application has been filed against the non-selection of the applicant in the selection panel drawn up for the post of JEF in the scale of Rs.2000-3200 (RP). The applicant had passed the written examination held for the post on 12-2-1992 but had failed in the viva-voce test which was held on 26/27-2-1992 which was notified on 13-7-1992.

2. At the outset, the counsel for the applicant fairly conceded the fact that the Tribunal could not sit as the selection body and go behind the assignment of marks as such. In this case, however, the applicant

had apprehended that his poor performance in the viva-voce was due to the fact that he had earned an adverse remarks in the record at the relevant time of viva-voce which was expunged later and this could have been the reason for his non-selection. Since a specific prejudice was alleged, the Tribunal had asked for the records also for its perusal.

3. In the reply, the respondents stated that the Selection Committee had not been prejudiced in the manner as apprehended by the applicant. In fact, the viva-voce procedure was a well laid down drill with a specific assignment of marks for the record of the employee, seniority of the employee and for personality, address, leadership and technical qualifications. In the case of the applicant, there was a shortfall in the minimum qualifying marks for viva-voce. The shortfall was also such as not to be offset even if the full marks had been assigned for the "record-of-service" column. This fact was found to be correct since the maximum marks that he could have got under the record of service column could have given him another 7 marks only while the deficiency was of the order of nearly 9 marks. The requirement for obtaining necessary marks is as under:

Candidates must obtain -----	Minimum Qualifying Marks (Safety Posts) -----	
	<u>Others</u>	<u>SC/ST</u>
a) Written Test for being called in Interview	21/35	21/35
b) Professional ability	30/50	30/50
c) Aggregate (columns 5+6+7+8+9)	60/100	51/85*


Though the applicant got qualifying marks in the written paper, in the personality test he could obtain only 51.55% of marks as against the required 60%.


4. While the Tribunal does not want to comment on the fact as to whether the applicant's service record would have merited him higher marks or not, the above factor rules out the possibility of the marks obtained against Service Record column having prejudiced the chances of the applicant in the selection.

5. The counsel for the applicant fairly conceded that on the seniority issue, he had no quarrel with the marks assigned. The counsel for the applicant, however, did make the point that looking to the qualifications, he should have obtained higher marks in the personality test column. This argument is in the realm of conjecture only and, as stated earlier, the Tribunal cannot substitute itself in the place of the Selection Committee for assigning marks.

6. The Tribunal, therefore, does not see any reason to interfere with the decision taken ~~for~~ <sup>by</sup> the selection panel as no arbitrariness has been noticed in the proceedings of the Committee.

7. The application is, therefore, rejected.  
No order as to costs.

  
(K. Ramamoorthy)  
Member (A)

  
(N.B. Patel)  
Vice Chairman

kvr

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAT BENCH

Application No. 041408193 of

Transfer Application No. \_\_\_\_\_ of

CERTIFICATE

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

Dated : 19.06.95

Countersign :

*[Signature]*  
19/6/95

Section Officer

*[Signature]*

Signature of the Dealing  
Assistant

INDEX

CAUSE T1T1

021468193

NAME OF THE PARTY:

M.D. S. M. Gehani

U 0.1, 2 000

[illegible]