

Central Administrative Tribunal
Calcutta Bench

No. OA 4/96

Dt. 15-1-2001

Present : Hon'ble Mr.D.Purkayastha, Member(J)
Hon'ble Mr.M.P. Singh, Member(A)

Particulars of the applicant :

Ram Chandra Bhagat
Son of Kapil Dev Bhagat
residing at Jiaganj, Debipur
Dist. Murshidabad and working for
gain as Station Master, Gankar Station, Eastern Rly
Dist. Murshidabad under Malda Dn. .. Applicant

Particulars of the respondents :

Union of India & Others Respondents

Present for the applicant ... Mr. Samir Ghosh
Present for the respondents .. Mr. R.K. De

O R D E R

Mr. M.P. Singh, Member(A)

The controversy involved in this OA is with regard to non-selection of the applicant to the post of Deputy Station Manager in the scale of Rs2000-3200/- (pre-revised). The applicant has sought relief by seeking direction to the respondents to cancel the impugned panel dated 21-11-95 (Annexure - A2) and to consider his case for selection and promotion to the said post of Deputy Station Manager along with other eligible candidates shown in the memo dated 13-6-95 (Annexure-A1) who have qualified for viva-voce test without addition of notional seniority marks.

2. The facts leading to the case are that the applicant was initially appointed as ASM on 12th December, 1966 in North Eastern Railway. He was subsequently transferred from North Eastern Railway to Eastern Railway and promoted to the post of Station Master in the scale of Rs550-750/- (pre-revised) which was revised to Rs1600-2660/-. He was posted at Gankar Station under Malda Division. The channel of promotion from the post of Station Master is assigned to the post of Deputy Station Manager and from Deputy Station Manager to the post of Station Manager. The post of Deputy Station Manager is in the scale of Rs2000-3200/-, and is a selection post. According to the applicant, his name appears at S1 No.5 in the seniority list dated 21-11-94 and that of the private respondents No.8 to 14 at S1 No.6,7,27,34,37,39 and 42 respectively.

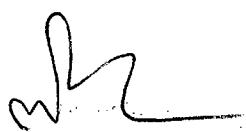


3. The official respondents had decided to select 22 candidates for preparation of a panel for the post of Deputy Station Manager (unreserved 21, SC-1). In pursuant to this decision, a written test was held on 17-12-94 and 24-12-94 and subsequently the result of the written test was published on 13-6-95 wherein the applicant was declared successful. The applicant and other candidates who qualified in the written test appeared in the viva-voce test which was held on 11-9-95 and 18-9-95. The result of the viva-voce test was published on 21-11-95 and the name of the applicant was excluded from the list of the successful candidates. According to the applicant, 52 names of the successful candidates who qualified in the written test held on 17-12-94 and 24-12-94 were published by way of first list containing 29 names and second list containing the names of 23 candidates. These 23 persons whose names find place in the second list dated 13-6-95 also secured the qualifying marks but by adding notional seniority marks and their eligibility for empanelment was subject to their securing 60% marks in the professional ability and 60% marks in the aggregate. As such these candidates who qualified in the written test and considered for viva-voce test by addition of notional seniority marks in the written test were again given the seniority marks in the viva-voce test and selected for empanelment for the said post of Deputy Station Manager in gross violation of the extant rules of the Railway Board. Aggrieved by the action of the respondents to include the name of the candidate in the panel who are juniors to the applicant, being respondent Nos 8 - 14 by adding seniority marks at the stage of written test as well as at the time of viva-voce test, he submitted a detailed representation to the respondents on 7-12-95 and thereafter filed this OA on 1-1-1996.

4. The respondents have not filed their reply despite several opportunities given to them. The learned counsel for the respondents made a submission that the procedure followed by the respondents for preparing the panel for the post of Deputy Station Manager is in accordance with the rules and instructions issued by the Railway Board. He stated that as per instructions contained in the Ministry of Railways letter dated 5-12-84, sixty(60) percent of total of the marks prescribed for written test

7. On the direction given by us, the learned counsel for the respondents submitted the original record. We find that 50 marks out of total 100 marks have been distributed for written test and seniority (35+15). From the records placed before us, it is seen that certain candidates including the respondents No.10 and 11 have not secured 60% marks in the written test after adding notional seniority marks awarded to them. By adding notional marks for seniority in respect of 23 candidates in the second list and make them eligible for viva-voce test alongwith the 29 candidates of the first list who have passed the written test by securing 60% marks, the respondents have attempted to make unequal as equals. This action of the respondents is arbitrary and is not in accordance with law. We also find from the documents placed before us that the procedure laid down by the Railway Board for filling up "general selection" posts vide their letter No. E(NG)I-98/PMI/II dated 16-11-98 is at variance from the one adopted by the respondents in this case. In para 2 of the said letter dt. 16-11-98, it is stated that the procedure for filling up general selection posts has been reviewed pursuant to Hon'ble Supreme Court's order and judgement dated 12-3-96 in M. Ramjayaram V. General Manager, South Central Railway and Others 1996(1)SC SLJ 536 holding inter alia that in the impugned selection for appointment to the post of Law Assistant it is illegal to award marks for seniority. The Ministry of Railways have accordingly decided to modify the existing procedure for filling up "general selection" posts for which staff of different categories/departments fulfilling the conditions are eligible to volunteer, as follows :

(i) Marks for seniority will not be awarded and accordingly distributions of marks allotted to various factors of selection will be as under :



...5...

	Maximum marks	Qualifying marks
(1) Professional ability consisting		
(a) Written test; and	35	21] 30/50
(b) Viva-voce test	15	-]
(2) Personality, address, leadership, academic/technical qualifications	30	
(3) Record of service	20	

8. From the above facts it is clear that the procedure followed by the respondents by adding notional marks for seniority for preparing the panel for appointment to the post of Deputy Station Manager is not sustainable in law and therefore the panel prepared by them on 21-11-95 is illegal and liable to be quashed.

9. In the light of the above discussion, the OA is allowed and impugned panel dated 21-11-95 (Annexure-A2) prepared by the respondents is hereby quashed & set aside. The respondents are directed to finalise the selection in accordance with the procedures laid down in letter dated 16-11-98 and consider the applicant for selection to the post of Deputy Station Manager alongwith other eligible candidates shown in the memo dated 13-6-1995 (Annexure-A1) who have qualified for viva-voce test without addition of notional seniority marks. Interim order passed on 3-1-96 stands vacated. The OA is disposed of accordingly.

No order as to cost.


(M.P.SINGH)
Member(A)


(D.PURKAYASTHA)
Member(J)