

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. NO. 1151 OF 1996 WITH

M.A. NO. 130 OF 1997

Present : Hon'ble Mr. Justice A.K.Chatterjee, Vice-Chairman

Hon'ble Mr. M. S. Mukherjee, Member (A)

1. R.K.Rao, OS, Gr.II  
IRM's Office, SE Rly, Adra
2. A.B.Roy, OS, Gr.II  
DRM's office, SE Rly, Adra
3. Smt. Ratna Bhatta, OS, Gr.II  
DRM's office, SE Rly, Adra
4. R.K.Chatterjee, OS, Gr.II  
DRM's Office, SE Rly, Adra

VS

1. Union of India through the  
General Manager, S.E.Railway,  
Garden Reach, Calcutta-43
2. Divisional Railway Manager,  
S.E.Railway, Adra
3. Divisional personnel Officer,  
S.E.Railway, Adra

..... Respondents

For the petitioners : Mr. B.C.Sinha, Counsel

For the respondents : Ms. B.Roy, Counsel

Heard on : 29.7.97 : Order on : ~~24-8-97~~ 25-8-1997

ORDER

M.S.Mukherjee, A.M.:

This is a petition under section 19 of the Administrative Tribunals Act, 1985, in which the petitioners have challenged the impugned communication dated 6.9.96 (Annexure-A1 to petition) issued by the DPO, S.E.Railway, Adra by which it has proposed to hold a suitability test (written) for promotion to the post of OS, Gr.I in scale Rs. 2000-3200/- on 21.9.96. A list of persons eligible to appear in the said suitability list has also been indicated in the said impugned communication.

2. The petitioners have prayed for quashing of the aforesaid communication and also for a direction on the

respondents to prepare a list of regular SC/ST candidates as also unreserved candidates after fixing appropriate inter se seniority and thereafter to initiate fresh selection process from amongst eligible candidates in the respective categories.

3. The short point of dispute about the impugned notification at Annexure-A1 is that it did not indicate the number of posts to be filled up, nor was there any break up of the posts earmarked for reserved and unreserved category candidates.

4. When the petition was moved on 18.9.96 as an unlisted motion, this Tribunal had issued an interim order staying the said suitability test proposed to be held through the impugned notification.

5. The respondents have filed an affidavit in counter in response to the petition. Through the reply, they have made the following admission that the number of vacancies to be filled up by the candidates is evident from the number of persons called at the ratio of 1 : 1. As such 16 persons have been called for filling up 16 vacancies and the SC/ST status of the candidates called has been indicated against the particular candidates. However, inadvertently, the break up, i.e. number of UR, SC and ST vacancies have not been shown in the impugned communication. The respondents contend that since the substantial requirement of the rules has been fulfilled, there is no merit in this case and accordingly, they have asked for rejection of the case.

6. We have heard the learned counsel for the parties and have gone through the documents. The Railway Board through their Establishment Serial No. 42/48, dated 22.3.84 (Annexure-A2 to the petition) has clearly laid down that while circulating the names of eligible candidates either for selection or for non-selection posts, it is necessary to declare the actual size of the panel for selection post or the

select list indicating the number of UR, SC and ST etc. so that all concerned are aware of the same.

7. Admittedly, this has not been done through the impugned communication. The respondents submits through the reply that the impugned notification has been issued by duly following the practice, holds no water. The Estb. Sl. dated 22.3.84 made it very clear that the requirement of the circular regarding break up of vacancies for reserved and unreserved candidates has to be clearly indicated so that all concerned are aware of the position. These have admittedly not been done. Such practice of selection process without initially notifying the details of posts gives no right to appointment to a candidate even after empanelment, in line with the ratio decided by the Hon'ble Apex Court in the cases of Hoshear Singh -vs- State of Haryana, 1993(5) SLR 36, or Madan Lal etc. -vs- State of J & K, 1995 SCC(L&S) 712.

8. Secondly, in the recent past, the Hon'ble apex court in a number of pronouncements and rulings and this Tribunal and other Tribunals as well had subsequently issued rulings, outlining the detailed issue regarding reservation. So, the list of eligibility has also to be prepared keeping in view the inter se seniority amongst the unreserved and reserved category candidates correctly drawn in line with the judicial pronouncements on the subject.

9. In view of the above, we have no hesitation in quashing the impugned notification dated 6/9/96 and we quash the same accordingly and direct that as and when the respondents issue fresh notice regarding selection process, rules in the matter have to be scrupulously followed and the list of eligible persons has to be correctly drawn up in accordance with the rules, regulations and judicial pronouncements in the matter.

10. The interim order passed is hereby made absolute.

Accordingly, MA 130/97 which has been filed by the respondents

for vacating the above interim order stands disposed of.

✓ This order disposes both the OA and the M.A. This order date 25/8/97  
11. There will be no order as to costs as a part of the earlier order  
passed on 25-8-97.

- Corrected  
as per order  
of 25/8/97

SM/  
19/11/97

MS/

25/8/1997  
(M.S. Mukherjee)

MEMBER (A)

A. K. Chatterjee  
25/8/97  
(A.K. Chatterjee)

VICE CHAIRMAN