

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J O D H P U R

Date of order : 28.04.1997

O.A. NO. 513/1995

ARVIND SHARMA s/o SHRI DEVISAHA I SHARMA, R/O QTR. NO.
400-K RPF GROUND, RAILWAY COLONY, ABU ROAD, AT PRESENT
EMPLOYED ON THE POST OF ASSTT. ELECTRIC FOREMAN IN
DIESEL SHED, ABU ROAD , W/RLY.

..... Applicant

Vs.

1. UNION OF INDIA THROUGH THE GENERAL MANAGER
WESTERN RAILWAY, CHURCHGATE, BOMBAY.
2. DIVISIONAL RAILWAY MANAGER (E), WESTERN RAILWAY,
AJMER DIVISION, AJMER.
3. SENIOR DIVISIONAL MECHANICAL ENGINEER (EL),
WESTERN RAILWAY, ABU ROAD (RAJ).
4. SHRI RANJODH KUMAR (SC),
ASSTT. ELECT. FOREMAN, DIESEL SHED,
GANDHIDHAM (GUJARAT) W/RLY.

..... Respondents

CORAM

THE HON'BLE MR.S.DAS GUPTA, ADMINISTRATIVE MEMBER
THE HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

For the Applicant

Mr. J.K. Kaushik

For the Respondents 1 to 3

Mr. S.S. Vyas

For the Respondent No. 4

None present

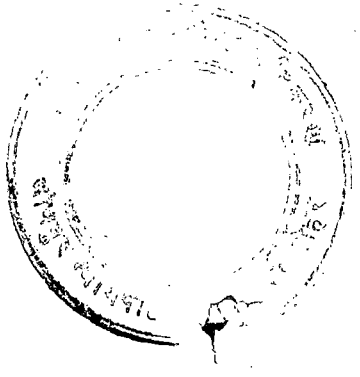
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PER HON'BLE MR.S.DAS GUPTA :

Heard the learned counsel for both the parties.

2. This Original Application has been filed by the applicant for seeking a direction to the respondents not to promote any Scheduled Caste candidate including the respondent No. 4 to the post of Junior Electric Foreman ("JEF" for short), in excess of the quota reserved for Scheduled Caste candidates and also to direct to consider the promotion to the vacant post of J.E.F. from general category candidates as per the rules in force with consequential benefits. Any promotion made to the post of J.E.F. of respondent No. 4 has been sought to be quashed.

3. Briefly stated the facts of the case are that a Notification was issued for filling of six posts of J.E.F. by order dated 3.1.1994. This constituted a written test as well as a viva voce test. The applicant was one of the candidates for this post. He qualified in the written test but after the viva voce test, his name did not find place in the panel which was declared vide order dated 28.7.1994 in which five candidates were declared to have succeeded. The last name in this panel is that of Sh. Ranjodh Kumar, who is a member of the Scheduled Caste and his empanellment is against the quota reserved for the Scheduled Caste.

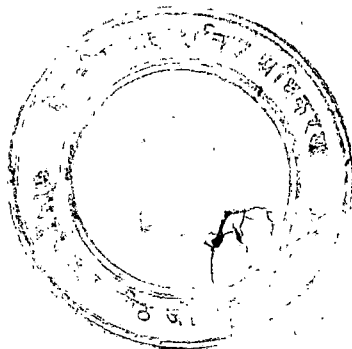


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4. The controversy in this case is that while the applicant contends that both the reserved vacancies for Scheduled Caste were already filled leaving no quota vacancy for Scheduled Caste, the respondents contended that there was only one ^{of its} vacancy reserved for the Scheduled Caste filled at that time whereas the other Scheduled Caste person was holding an ex cadre post of Electrical Chargeman. Thus, in case both the Scheduled Caste vacancies were filled (total cadre strength being 13, the number of vacancies for reserved quota for Scheduled Caste was two), then the selection of Shri Ranjodh Kumar, ^{who belongs} ~~which is a Scheduled Caste vacancy~~, would have been irregular. However, there is a dispute of fact on this matter and during the course of argument, the learned counsel for the respondents showed us an order by which a person who was stated to have been holding an ex cadre post, has already been promoted to a higher grade.

5. Whatever is the position with regard to the filling of the Scheduled Caste vacancies, the admitted fact is that the applicant did not succeed in the selection examination. The learned counsel for the applicant pointed out that had Shri Ranjodh Kumar not been empanelled, there would have been a general vacancy for which no empanelled candidate would have been available and in such a situation by virtue of the note under Para 2 (1) (iii) of the Indian Railway Establishment Manual, he would ~~not~~ have been considered for promotion.



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6. We have carefully considered the aforesaid submissions. From the seniority list, it is found that several persons who were senior to the applicant in the general category were also found un-successful and , therefore, evenif, Shri Ranjodh Kumar was not empanelled that vacancy would not have benefited ~~the~~ applicant in any way as an ad hoc promotion would have been given to persons senior to the applicant who did not succeed in the selection test.

7. In view of the foregoing, we find no merit in the Application. It is accordingly dismissed at the stage of admission.

8. No order as to costs.



(A.K.MISRA)
Member (J)


(S.DAS GUPTA)
Member (A)

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MEHTA

1. R/Copy
on 5/5/97
R/Copy

2. S. S. Ryan
AT 7/5.

3. Lib.

Part II and III destroyed
in my presence on 2/5/03
under the supervision of
section officer (1) as per
order dated 4/5/03


Section officer (Record)

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