

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH JODHPUR

1. OA No.162/98

Date of order : 20.4.2001

2. OA No.163/98

3. OA No.164/98

1. Nand Kishore son of Sh. Tulsi Dasji Acharya Khalasi  
under District Controller of Stores, Northern Railway  
Stores Depot, Bikaner (Lalgah) Resident of Sale-ki-  
Holi Near Mool Chand Lohiya Kothari, Bikaner (334005)
2. Sri Ram son of Sh. Poonam Chand, cast mali, Khalasi  
under District Controller of Stores, Northern Railway  
Stores Depot, Bikaner (Lalgah) R/O Shivbari, Near  
Jain Temple, Bikaner (334001)
3. Kanhya Lal son of Sri Ram cast, Mali Khalasi under  
District Controller of Stores, Northern Railway Stores  
Depot, Bikaner (Lalgah) R/o Sujandesar P.O. Sujandesar  
(Bikaner)

...APPLICANT

V E R S U S

Union of India, through General Manager,  
Northern Railway, Headquarters Baroda House,  
New Delhi and Others.

...RESPONDENTS

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Mr. Bharat Singh, counsel for the applicants  
Mr. S.S. Vyas, counsel for the respondents No.1 to 3  
Mr. None present for the respondent No.4 and 5

CORAM

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. A.P. Nagrath, Administrative Member

ORDER

(per Hon'ble Mr.A.P.Nagrath)

These three OA's are being disposed of by this common order, As the grievance is arising out of the same selection process and the relief sought by the three applicants in these OAs is the same.

2.  $33\frac{1}{3}\%$  quota of the posts in the cadre of clerks grade Rs.3050-4590 are filled up by promotion by selection from amongst eligible group-D staff. All the three applicants had applied for the selection and they appeared in the written test on 10.5.98. They were called for the viva voce test and the final panel was declared by letter dated 16.6.98 Annexure A/1. The applicants are aggrieved by this order because their names do not appear in the list of successful candidates.

3. Admitted facts are that the selection was held for filling up 7 vacancies in the cadre of clerks and the three applicants have also appeared in the selection consequent to which they were called for viva-voce test as per letter dated 2.6.98. The case of the applicants is that their seniority list had not been declared before holding of the selection. Their plea is that they were entitled to get seniority marks, as per their seniority in the cadre, added to their marks in the written test but they have no indication whether the same were included. The contention is that the impugned order dated 16.6.98 is required to be modified by adding seniority marks in their favour. With these averments the applicants have made a prayer that the respondents be directed to add seniority marks alongwith marks obtained by them in the written test and that again to add seniority marks alongwith viva-voce test to finalise the result.

4. The stand taken by the respondents is that the rules for selection do not provide for adding notional marks of seniority to the marks obtained in the written test for final framing of the panel. The notional marks are added only to determine eligibility of the candidates to be called for viva-voce test. For this reason, the applicant Sri Ram was called by adding the notional marks of seniority to the marks obtained by him in the written examination as by considering these notional marks, he became eligible for viva-voce test. In the case of other two applicants Nand Kishore and Kanhya Lal, since they had passed the written test by obtaining requisite qualifying marks, there was no need to add notional seniority marks for calling them for the interview. It has been stated that the rules do not provide for framing seniority list <sup>for</sup> holding the written test, all the candidates who applied for appearing in this general selection. The seniority list is prepared only after the result of the written test has been prepared. They have annexed PS No.11347/97 to suggest that seniority list is being prepared as per this printed serial. The respondents contend that the panel was required to be prepared for 7 posts only and this panel is prepared strictly as per seniority from amongst successful candidates. We do not find any relevance of this ps, in the matter before us.

5. Heard, the learned counsel for the parties. The selection proceedings were also seen by us.

6. We find from the letter dated 2.6.98 (A/2) that it was clearly stated in the 'note' that Sri Ram was being called for viva-voce after adding notional marks of seniority, Kanhya Lal and Nand Kishore were considered eligible even without these notional marks. Annexure A/4 lays down guidelines for determining eligibility for

calling the candidates for interview in selection posts. In Para No.2 of this letter the relevant portion is extracted below:-

"On the basis of this review, the Ministry of Railways have now decided that 60% of the total of the marks prescribed for written examination and for seniority should also be the basis for calling candidates for viva-voce test (interview) instead of 60% of the marks for the written examination only as at present. This would enable the consideration of some of the senior candidates who under the existing rules, may not be even eligible to be called for interview."


A reading of this makes it clear that the notional marks of seniority are to be added to enable consideration of some of the senior candidates who under the existing rules, may not have been eligible to be called for interview. This is obvious, that this provision has been made to take care of the interest of the senior candidates who may not have obtained qualifying i.e. 60% marks in the written examination.

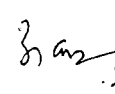
This letter makes it abundantly clear in Para No.3 that these notional marks are to be considered only for the purpose of calling candidates for interview; on the basis of this modification, and that the normal selection procedure will be followed for the remaining part of the process of selection. There is no provision in the rules to count the seniority marks twice and even otherwise that will be totally irrational and unreasonable. We do not find any force in the arguments of the respondents and their plea is liable to be rejected.

We have perused the proceedings of the selection and we find that the applicant Sri Ram, though senior to the finally successful candidates, could not obtain

requisite qualifying marks in professional abilities, i.e. written test and viva-voce and thus, he failed in this selection. The other two applicants Kanhya Lal and Nand Kisnore obtained requisite qualifying marks but could not be placed in the panel as they were junior in the order of the seniority to the 7 persons who found place in the panel. Consequently, we are satisfied that there is no infirmity in this selection and there is no ground for interference or modification.

We, therefore, dismiss this application.  
No order as to costs.

  
( A.P. NAGRATH )  
Admn. Member

  
( A.K. MISRA )  
Judl. Member

Copy  
25  
10/10/07

Received Col.

May 22/4

Part II and III destroyed  
in my presence on 28-3-07  
under the supervision of  
section officer  
order dated 14/2/07

Section officer (Records)