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CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH

**ORIGINAL APPLICATION NO. 196/2007
JODHPUR THIS Day FEBRUARY 27, 2009**

CORAM:

**HON'BLE MR. N.D. RAGHAVAN, VICE CHAIRMAN
HON'BLE MR. SHANKAR PRASAD, MEMBER (A)**

Lalit Kumar Bairwa S/o Shri Jagan Nath Bairwa, Resident of 488 C Double Story, Dhobi Ghat Road, Railway Colony, Abu Road (Raj.) C/o Loco foreman, Abu Road. At present working as a L.D.C. ALF, Abu Road, Northern Railway.

.... Applicant.

For Applicant : Mr. N.R. Goswami, Advocate.

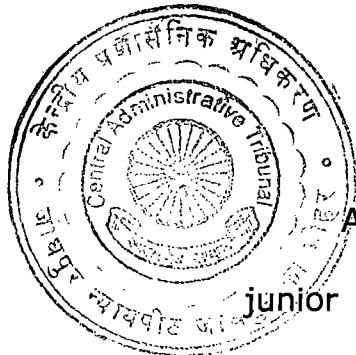
VERSUS

1. Union of India through the Secretary, North Western Railway, Jaipur through its General Manager.
2. The Divisional Railway Manager (Establishment), North Western Railway, Abu Road.
3. Senior Divisional Yantrik Abhiyanta, North Western Railway, Abu Road.
4. Shri Shankar Lal Parihar S/o not known, at present working as Clerk in the office of Loco foreman, Abu Road under the respondent No.3.

.... Respondents.

**For Respondents 1to 3 : Mr. Salil Trivedi, Advocate.
None present for respondent No.4**

**ORDER
[PER SHANKAR PRASAD, MEMBER (A)]**



Aggrieved by the decision of the respondents to promote his junior as the best amongst the failed category, the applicant has preferred the present O.A. He seeks a direction to the respondents to promote him.

(2)

2. The facts lie in a narrow compass. The applicant is working as a N.M. Clerk under the respondents. His name and that of private respondent No.4 appear at Serial 21 & 36 of seniority list dated 30.05.2001. (**Annexure - A/2**). The respondents notified a selection for 21 posts of LDCs under 33.33 % quota of promotion on (**Annexure - A/3**). The list of eligible candidates in order of seniority was published vide letter dated 01.11.2006. (**Annexure - A/4**). The name of applicant and private respondent appear at Serial 8 & 17. The results of the said test were declared on 09.07.2007. (**Annexure-A/5**). This list includes 21 names, out of which only 7 persons qualified against standards. Against 16 persons including the applicant & private respondent there is an entry, which translates to 'against relaxed standards'. The impugned order promotes the private respondent but not the applicant.

3. We have heard the learned counsels.

4. The learned counsel for the applicant has drawn our attention to sub para (4) under paragraph **1989 (a) (i) of the Indian Railway Establishment Manual**. This sub paragraph reads as under:-

"All those who qualify in written and oral test, the qualifying percentage of marks being prescribed by the General Manager, should be arranged in the order of their seniority for promotion against the yearly vacancies available for them in Group 'C' categories."



(3) He contents that as per this sub paragraph the applicant was required to be promoted on relaxed standard as he is senior.

5. The learned counsel for the official respondents on the other hand draws our attention to the Railway Board circular of 31st August 1974 on promotion by relaxed standards. Paragraph 2 of the said circular reads as under:-

"The matter has been further considered by the Board and it has been decided that if, during the selection proceedings it is found, that the requisite number of Scheduled Caste and Scheduled Tribe candidates are not available for being placed on the panel in spite of the various relaxations, already granted, the best among them i.e., who secure the highest marks, should be earmarked for being placed on the panel to the extent vacancies have been reserved in their favour. The panel excluding the names of such persons may also be declared provisionally. Thereafter, the Scheduled Caste and Scheduled Tribe candidates who have been so earmarked may be promoted *ad hoc* for a period of six months against the vacancies reserved for them. During the said six months' period, the Administration should be given them all facilities for improving their knowledge and coming up to the requisite standard, if necessary by organizing special coaching classes. At the end of the six-months' period, a special report should be obtained on the working of these candidates and the case put up by the Department concerned to the General Manager through S.P.O. (R.P.) for a review. The continuance of the Scheduled Caste and Scheduled Tribe candidates in the higher grades would depend upon this review. If the candidates are found to have come upto the requisite standard, their names would be included in the panel and the same finalized; otherwise their names should not be included in the panel and the vacancies de-reserved and filled in the usual manner by candidates from other communities."

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6. The learned counsels for the respondents has produced the results of the said examination. The same were shown to the counsel for the applicant also. The applicant and private respondent have obtained 39 and 45 marks respectively. These are below the marks required for passing in the said examination.

7. Sub paragraph (4) referred to by the counsel for the applicant applies in the case of normal promotion i.e. for employees, who succeed in the test. In case of promotion within Group 'C', the Railway Board has issued instructions that persons obtaining more than 80 % marks can jump over their seniors to the extent indicated therein. The purpose of this sub- Rule (4) is to make it clear that this practice is not applicable in this examination. On the other hand the Railway Board circular produced by the learned counsel for the respondents is abundantly clear that seniority has no place in best amongst relaxed candidates. It is on the basis of marks obtained in the examination.

8. There is thus, no illegality in the action of the respondents and the O.A. is fit to be dismissed and is dismissed accordingly. No costs.

Shankar Prasad
[Shankar Prasad]
Member (Admn.)
Rss

N.D. Raghavan
[N.D. Raghavan]
Vice Chairman

~~Part I
Part II
Part III~~
18/3/09
A/C
Guntur
N.R. Baswami
for (Ad)

Part II and III destroyed
in my presence on 8/3/09
under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Record)