

(v)

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

OA No. 57/2013  
Jodhpur this the 02<sup>nd</sup> day of September, 2013.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J) and  
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jagdish Kumar Dhania S/o Shri Srawan Kumar Dhania, aged about 26 years, R/o village Post Sirsala, Tehsil and Distt. Churu (Rajasthan) and presently working as Railway key man, Gang No. 05, Aslu under Senior Section Engineer (Permanent Way) North Western Railway, Churu (Rajasthan).

.....Applicant

(Through Advocate Mr Rajesh Gurjar proxy counsel for Rajesh K. Bhardwaj)

**Versus**

1. Union of India through, the General Manager, Northern Western Railway, Jaipur (Rajasthan).
2. The Divisional Railway Manager, Northern Western Railway, Bikaner (Rajasthan).
3. The Divisional Personnel Officer, Northern Western Railway, Bikaner (Rajasthan).
4. The Senior Divisional Personnel Officer, Northern Western Railway, Bikaner (Rajasthan).

(Through Advocate Mr R.K. Soni)

5. Sh. Ganpat Lal Bairwa S/o Sh. Nathu Lal Bairwa, presently working as Track Man, Gang No. 20, under Senior Section Engineer (Permanent Way) North Western Railway, Sudsar, Tehsil Sri Dungargarh, District Bikaner (Rajasthan).

..... Respondents

ORDER (Oral)  
**Per Justice Kailash Chandra Joshi, Member (J)**

The applicant Shri Jagdish Kumar Dhania has filed this OA under Section 21 of the Central Administrative Act, 1985.

2. The short facts of the case as brought out by the applicant are that applications were invited for the post of Senior Permanent Way Supervisor (SrPWS) in Railway under 25% Limited Departmental Competitive Examination (LDCE) quota by the respondents and being eligible the applicant applied for the same on 23.08.2011. The written examination for selection on the said post was held on 22.07.2012 and result of this examination was declared on 02.08.2012 in which the applicant was declared successful at merit No. 32. However, panel for the post of SrPWS declared by the respondent No.4, vide Annex A/1 dated 10.01.2013 in pursuance to the examination dated 22.07.2012, did not include the name of the applicant. The applicant being aggrieved by illegal and arbitrary action of the respondents filed this OA seeking following relief(s) :

- “1. That this Original Application may kindly be allowed, and the panel declared on 10.01.2013 (Annex. A/1) may kindly be declared illegal and same may kindly be quashed and set aside.
2. The respondents may kindly be directed to revise the panel declared on 10.01.2013 (Annex. A/1) and after including the name of the applicant the same may kindly be issued afresh.
3. The respondents may kindly be directed to rectify the panel declared on 10.01.2013 (Annex. A/1).
4. That in pursuance to the (Annex. A/1) no appointments are made yet, but if the same would be done after filing of this application, then the same may kindly be declared illegal and be kindly be quashed and set aside.
5. Kindly declare the action of respondents on the part of respondents illegal and bad in law in accordance with the judgments of Hon'ble Apex Court.
6. During the pendency of this application, if any order is passed or any action is taken against the applicant prejudicial to his interest, the same may kindly be taken on record and may be quashed and set aside.

7. That the respondents may kindly be directed to give all the consequential benefits to the applicant applicable to him.
8. That the respondents may kindly be directed to compensate the applicant for redressal of his grievance.
9. Any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant and against the respondents."

The applicant in support of his application has filed 9 documents from Annex. A/1 to A/9.

3. The respondent-department by way of their reply contended that as per notification dated 18.08.2010 (Annex. A/2) applications from the eligible category having qualification 10<sup>th</sup> +2 with science and math's were called for to appear in the selection for the post of SrPWS against LDCE 25% quota. Since the applicant was not having the prescribed qualification, as he was not eligible to be called in the selection, his candidature was not considered by the respondent-department at the relevant time.

4. It has been further averred that as per notification dated 09.09.2010 (Annex. A/3) the applications were invited by the respondents for 22 posts. Out of which 05 posts were reserved for SC candidates, 02 posts were reserved for ST and remaining 15 posts were for General category candidates. In the said notification the staff having qualification of 10<sup>th</sup> Board examination passed and a staff who are working the following categories were eligible to apply in selection for the post of SrPWS

of pay band of Rs 9300-34800, GP 4200 against 50% promote quota.

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- 1. Sr. Mate Engg. Pay Band Rs 5200-20200 + GP 2400,
- 2. Mate Engg. Pay Band Rs 5200-20200 + GP 1900 and
- 3. Key Man Engg. Pay Band Rs 5200-20200 + G.P. 1800”

It has been averred that the applicant was not working on any of these posts, hence not eligible and was therefore, his candidature was not considered.

5. It has been further stated that the applications for the posts of SrPWS against 25% LDCE quota were called for by letter dated 29.07.2011 by the respondent No. 4 and not by respondent No. 3 i.e. The Divisional Personnel Officer, Northern Western Railway, Bikaner (Rajasthan). The letter dated 16.12.2011 Annex. A/6 is a list of eligible as well as not eligible candidates who applied for selection to the post of SrPWS in reference to letter dated 29.07.2011 and Annex. A/7 is a list of candidates who were declared pass in the written examination that took place on 22.07.2012. Annex. A/1 is the selection panel, prepared on merit, for the post of Sr PWS and drawn in terms of instruction contained in RBE-113/2009 and the same is annexed as Annex. R/1. The selection was confined to the written test and the record of service as well in terms of PS. No. 137/03, a copy of which is at Annex. R/2. The panel was issued purely on the basis of merit and distribution of marks has been adopted as per instructions contained in PS No. 33/2006 as at Annex. R/3. The applicant

being lower in merit his name could not find place in panel Annex. Xu

A/1.

6. By way of rejoinder while reiterating the same facts, the applicant contended that the averments contained in the reply are not correct. He further averred that the applicant is the most eligible candidate and he is also working on higher post compared to the rest of the selected candidates, therefore, rejection of the candidature of the applicant is illegal and arbitrary.

7. Heard both the parties. Counsel for the applicant contended that candidature of the applicant has been wrongly rejected, therefore, the applicant is required to be allowed and process of selection be quashed.

8. Per contra counsel for the respondents contended that as per Annex. A/2 & A/3, the applicant was not found eligible for the post for which the applications were invited, therefore, his candidature was rejected and rejection is legal and as per law. Further he was not placed in Annex. A/1 panel because of being lower in merit and this selection was based in accordance with rules contained in Annex. R/1, R/2 & R/3.

9. We have perused relevant annexure and the record. It is an admitted fact that in Annex. A/3 following 3 categories of

employees were allowed and were eligible to apply for the present post:

- “1. Sr. Mate Engg. Pay Band Rs 5200-20200 + GP 2400,
- 2. Mate Engg. Pay Band Rs 5200-20200 + GP 1900 and
- 3. Key Man Engg. Pay Band Rs 5200-20200 + G.P. 1800”

and the applicant was not working on any of these posts, therefore, his case was not considered and his candidature was rejected on valid ground. So far as selection on the basis of results of written test held on 22.07.2012 for 25% LDCE quota is concerned, though the name of the applicant is in the list of the successful candidates passed in the written test but as per reply of the respondent-department, he could not find place in the final panel because of his lower position in merit. It would be seen that in the list of persons who have been declared successful in the written test consists of 137 names (Annex. A/7) and the number of persons who have been selected on the selection panel (Annex. A/1) is only 16 and there is nothing on record to show or a clear case made out that persons lower in merit to the applicant have been selected or there has been a violation of rules. There is no reason or basis to disagree with the pleading of the respondent-department that persons have been selected on the panel as per their circulars Annex. R/1, R/2 and R/3. As the applicant could not find place on the basis of merit in the panel at Annex. A/1, therefore, no case is made out to direct the respondents to place him in the panel.

10. Therefore, considering entire facts and circumstances of the case, the OA lacks merit and is accordingly dismissed with no order as to costs.

*Mee*  
**(MEENAKSHI HOOJA)**  
**ADMINISTRATIVE MEMBER**

*Govt*  
**(JUSTICE K.C. JOSHI)**  
**JUDICIAL MEMBER**

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