

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH: CALCUTTA

Original Application No. 394/97

Date of decision: 30.11.2004

Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member.

Hon'ble Mr. M.K. Misra, Administrative Member.

S. Majhi, S/o N.D. Majhi, aged about 40 years, working for  
gain as Dy. S.S. (Fitting), Shop No. 16, CLW/Chittaranjan  
at present residing at Qr. No. 8 B Street No. 1/E PO, Chittaranjan  
Dist. Burdwan, West Bengal, Pin 713 331

: Applicant.

rep. by Mr. B.C. Sinha : Counsel for the applicant.

versus

1. Union of India service through General Manager, CLW Chittaranjan, Burdwan (WB) Pin 713 331
2. General Manager, Chittaranjan CLW, Dist. Burdwan, Pin 713 331
3. Chief Mech Engineer CLW Chittaranjan, Burdwan
4. Dy CPO (W) CLW Chittaranjan, Dist. Burdwan.
5. Chief Personnel Officer, Chittaranjan, Burdwan, CLW

: Respondents.

rep. by Ms. U. Bhattarjee: Counsel for the respondents.

ORDER (oral )

Mr. Mukesh Kumar Gupta, JM

By the present application, the applicant  
seeks quashing of impugned letters dated 14.02.95, 10.07.95,  
09.08.96 and 18.09.96 and a direction to the respondents  
to prepare a penal of Dy. Shop Superintendents ( Fitting )  
herein after referred to as ' Dy. S.S. ( Fitting )',  
published on 19.01.95 on the basis of seniority assigned to

him with all consequential benefits.

2. The admitted facts of the case are that the applicant was appointed on 30.07.86 in CLW/ CRJ and subsequently promoted to the post of DYS.S.( Fitting ). For preparing a panel of 19 candidates for the post of Dy.S.S.(Fitting)/ now re-designated as Section Engineer( Fitting ), 57 candidates ( in the ratio of 1:3 ) were called for the written test, including the applicant. The said post is a selection post and the number of candidates to be called for the written test is 3 times the number of vacancies. As per the 40 point roster, the 19 vacancies are to be earmarked as under:- Unreserved 14, Scheduled Caste 03 and Scheduled Tribe 02. In the written test 27 candidates have secured the qualifying marks and therefore they were called for the oral test. The applicant, who belongs to S.C. Community was figuring at Sl. No. 7 in the seniority list of 57 candidates. As per the Railway Board's letter dated 14.04.83, for selection posts candidates including SC/ST must secure not less than 60% marks in the professional ability and not less than 60% marks in the aggregate to be eligible for empanelment. Relaxation of 10% in the qualifying marks is granted only to SC/ST candidates to fill up the reserved post, when the requisite number of qualified SC/ST candidates with general standard is not available and in that case as per the relaxed standard SC/ST candidates with 50% marks may be empanelled. The grievance of the applicant is that when the panel was published on 19.01.95, though his name figured Sl. No. 7 as per seniority position, he was show at Sl. No. 16 below his erstwhile junior and hence he suffered seniority.

Therefore, he submitted a representation to all concerned including the General Manager, but his grievances remain ~~not~~ <sup>not</sup> redressed.

3. The respondents contention is that one D. Naskar, who was at Sl. No. 20 as per the seniority was placed at Sl. No. 15, <sup>in the panel</sup> since he had qualified with general standard. Since the applicant had qualified under the relaxed standard, though he was at Sl. No. 7 as per the seniority, he was placed at Sl. No. 16 in the panel below the said <sup>Sl.</sup> Naskar. Further the applicant was fitted against 22nd point since he had qualified with the relaxed standard. As the applicant qualified under the relaxed standard, he cannot have any grievance with regard to his placement in the panel at Sl. No. 16, as per the extant rules governing the subject.

4. We heard the learned counsel for the parties and perused the pleadings carefully including the rule position i.e. the clarification dated 30.10.79. ( para 219 (j) of the Indian Railway Establishment Manual Vol I- 1989 Edition ), which reads as under:

" (j) The names of selected candidates should be arranged in order of seniority but those securing a total of more than 80% marks will be classed as outstanding and placed in the panel appropriately in order of their seniority allowing them to supersede not more than 50% of total filed of eligibility. "

( E(NG) 1/76 PM 1-142 dt. 25.07.79, 30.10.79 )

5. It is an undisputed fact that the applicant had qualified for selection to the post of Dy. S.S.(Fitting) under the relaxed standard, whereas Shri D. Naskar, junior

to the applicant, was placed above him on the basis that he had qualified under the general standard.

6. On bestowing our careful consideration to the averments and the clarification, a person who qualifies with general standard is to be shown above those who qualified with relaxed standard. We may note that the applicant has not filed any rejoinder refuting the above contention of the respondents. We may also note that the representation of the applicant was duly considered by all concerned and the panel was published on 24.06.96 after review and interpolation of name of the SC candidates. The applicant was also informed about his representations. The reference made by the applicant to the Railway Board's letter dated 30.07.71 is not correct as the same was superseded by Railway Board's letter dated 14.04.63.

7. Such being the case, we do not find any merit in the present application and applicant has been rightly shown at the proper place in the panel and promoted to the post of Dy. S.S.(Fitting) as per his turn. The O.A is accordingly dismissed. No costs.

  
( M.K. Misra )  
Administrative Member

  
( Mukesh Kumar Gupta )  
Judicial Member.

jsv.