

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 546/2005

WEDNESDAY, THIS THE 15th DAY OF MARCH, 2006

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

Raju
Cabin Master
Ingur Railway Station
Palakkad Division

Applicant

By Advocate Mr. K. Jaju Babu

Vs.

1 Union of India represented by
the Secretary to Government of India
Ministry of Railway, Rail Bhavan
New Delhi.

2 The Divisional Railway Manager,
Railway Division Office
Palakkad.

Respondents

By Advocate Mr. K.M. Anthru

O R D E R

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant is working as Cabin Master under the respondents. He is a member of Scheduled Caste community. Due to introduction of panel inter locking, Cabin Masters were rendered surplus and the respondents decided to fill up the vacancy of Goods Guard from among the Cabin Masters who were rendered surplus as per Annexure A-1. Written tests were conducted on 7.5.2005 and 9.5.2005. The applicant performed well in the examination and was hopeful of being appointed. After the written test, without publishing a panel showing the ranks of candidates who appeared in the written test, the respondents published a recommended panel as per Annexure-C including only 29 candidates. Out of the 34

vacancies notified by the respondents, only 29 vacancies were reported. It is contended that the non publication of the panel showing the rank of the candidates is arbitrary, illegal and unconstitutional. The panel showing the names of persons who passed the examination ought to have been published. Out of the 34 vacancies 5 are reserved for scheduled caste. Out of the 29 persons recommended for appointment, there are only 3 scheduled caste candidates. On the basis of the rank of the applicant in the panel which is yet to be published by the respondents, the applicant is entitled to get appointment. Hence, the applicant is seeking the following reliefs:

- (i) Declare that the exclusion of the applicant from Annexure A3 is illegal and unconstitutional.
- (ii) Call for the records and direct the 2nd respondent to include the applicant in Annexure A3 pursuant to the written test held for selection to post of Goods Guard.
- (iii) Direct the 2nd respondent to give appointment to the applicant as goods guard on the basis of his rank in written test pursuant to Annexure A2.
- (iv) direct the 2nd respondent to fill up the remaining five vacancies to the post of Gods Guards.
- (v) Call for the answer book and mark lists pursuant to Annexure A2 in respect of the applicant.

2 The respondents have opposed the OA and submitted that the applicant is not entitled to the inclusion in the select list as he has not qualified in the examination. The selection to the post of Goods Guard consisted of written test and viva voce. As per Railway Board's letter No. E(WG)1/2000/PM-1/41 dated 7.8.03 viva voce was dispensed with w.e.f. 7.8.2003 (Annexure R-1) and the selection was based on written test only. The total marks awarded in the written test for professional ability of a candidate is 50. The post of Goods Guard belongs to Safety category and therefore no relaxation is given to SC/ST category. In the test conducted on 7.5.05 and 9.5.05, 37 employees have qualified and out of which 33 belonged to Unreserved, 3 to SC and 1 belonged to S.T. Thus, altogether

29 employees have been empanelled for promotion as Goods Guard, 2 posts reserved for SC and 3 for ST were kept vacant for want of qualified candidates. The allegation of the applicant that these vacancies are going to be filled up by appointing persons through back door is totally baseless and without substance. The panel has been drawn up strictly according to the available vacancies and according to seniority, there is no rule to prepare and publish the panel showing the ranking of the candidates based on their performance. Hence the OA has no merit and is to be dismissed.

3 The applicant has filed rejoinder stating that he has fared well in the examination and it is the right of the candidate to know about his performance in the written test and there was no condition that a candidate should obtain 60% marks in the professional ability test and 60% in the aggregate.

4 We have heard the learned counsel on both sides. We have also perused the selection file relating to filling up of the vacancies of Goods Guard from among the surplus Cabin Masters. The guidelines issued by the Railway Board have also been perused. The applicant is challenging his non-selection on the grounds that he has fared well in the written examination and non-publication of the panel showing the ranking of candidates and the arbitrary fixation of 60% marks in the written test. Para 10.1 of the guidelines contained in the Railway Board's letter dated 20.10.99 deals with eligibility for selection and prescription of marks for SC/ST categories. Para 11.5.5 of the above guidelines deals with the eligibility for empanelment of SC/ST candidates under the Safety category and non-safety categories which is reproduced as under:

11.5.5-Eligibility for empanelment for SC/ST candidates

a) Safety categories

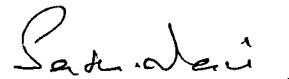
"An employee should obtain 60% marks in the professional ability and 60% marks in the aggregate, excluding marks for seniority. Thus a candidate securing 30 marks out of 50 in the professional ability and an aggregate of 51 out of 85 (i.e. Excluding 15 marks for seniority) would be eligible for empanelment."

5 In short, the rule quoted above clearly provides that an employee should obtain 60% marks in the professional ability and 60% in the aggregate for being placed in the panel. Therefore a candidate has to secure 30 marks out of 50 in the professional ability. The respondents have clarified that the post of Goods Guard belongs to Safety category. We have perused the Selection file showing the marks awarded to the candidates and in the list the applicant's name figures at Sl. No. 100 and he has secured only 21.25 marks in the written test out of 50 and has been declared as "failed". The concession/relaxation in marks based on DOPT OM NO. 36012/23/96-Est.(Res)Vol. 4 dated 3.10.2000 is not applicable to the applicant as the post is a under Safety category and even an SC candidate like the applicant has to obtain the minimum 30 marks. In this view of the matter, we find no merit in the prayer of the applicant. The OA is dismissed. No costs.

Dated 15.3.2006


GEORGE PARACKEN
JUDICIAL MEMBER

kmn


SATHI NAIR
VICE CHAIRMAN