

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.608/95

Friday, this the 23rd day of August, 1996.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

P Mammu, Chief Bridge Inspector,
Office of the Deputy Chief Engineer (Construction),
Ernakulam South,
Now on deputation to Konkan Railway
Corporation Ltd., Karwar.

....Applicant

By Advocate Shri TCG Swamy.

vs

1. Union of India through the Secretary,
Ministry of Railways,
Railway Board, New Delhi.
2. The General Manager,
Southern Railway, Madras--3.
3. The Chief Personnel Officer,
Southern Railway, Madras--3.
4. The Deputy Chief Engineer (Construction),
Southern Railway, Ernakulam South.
5. KM Ahmed Kunju, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Shornur, through Chief Personnel Officer,
Southern Railway, Headquarters Office,
Madras--3.
6. S Manoharan, Assistant Engineer,
Ex-Deputy Shop Superintendent, Arkonam,
Through Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Madras--3.
7. MV Bhaskara Warriar, Assistant Engineer,
Ex-Permanent Way Inspector, Palghat,
through the Chief Personnel Officer,
Headquarters Office, Park Town PO,
Madras--3.
8. TO Anthony, Assistant Engineer,
Ex-Permanent Way Inspector,
Trivandrum Central.
Through the Chief
Personnel Officer, Head-
quarters Office, Park
Town PO, Madras--3.
9. T Ashokan, Assistant Engineer,
Ex-Permanent Way Inspector, Palghat.

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10. PV Gopalan, Assistant Engineer,
Ex-Permanent Way Inspector, Grade I,
Palghat. Through the Chief
Personnel Officer, Head-
quarters Office, Park
Town PO, Madras--3.
11. MR Rajabushanam (SC),
Assistant Engineer, Ex-Shop Superintendent,
Arkonam. -do-
12. D Srinivasan, Assistant Engineer,
Ex-Construction/Madras Egmore. -do-
13. C Sundaramurthy, Assistant Engineer,
Ex-Chief Permanent Way Inspector, Thiruvattur. -do-
14. N Sivaraman, Assistant Engineer,
Ex-Chief Inspector of Works,
Construction/Bangalore Cantonment. -do-
15. V Navaneetham, Assistant Engineer,
Ex-Chief Inspector of Works, Madurai. -do-
16. K Raju, Assistant Engineer,
Ex-Chief Inspector of Works, Palghat. -do-
17. VA Kumaravelu, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Madras Central. -do-
18. TG Veeraraghavan, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Safety Counsellor, Headquarters. -do-
19. M Muniswamy, Assistant Engineer,
Ex-Chief Permanent Way Inspector, Madras Central. -do-
20. PC Karunaraman Nambiar, Assistant Engineer,
Ex-Chief Bridge Inspector, Konkan Railway. -do-
21. V Vaidyanathan, Assistant Engineer,
Ex-Chief Inspector of Works,
Madras Central. -do-
22. G Mahadevan, Assistant Engineer,
Ex-Chief Inspector of Works,
Construction, Tiruchirappalli. -do-
23. I Rahamathulla Sheriff, Assistant Engineer,
Ex-Shop Superintendent, Arkonam. -do-
24. CB Manimaran, Assistant Engineer,
Ex-Chief Inspector of Works, Madras. -do-
25. K Suryanarayanan, Assistant Engineer,
Ex-Chief Inspector of Works, Headquarters. -do-
26. Bhasker Albert, Assistant Engineer,
Ex-Chief Inspector of Works, Konkan Railway. -do-
27. Y Dayananda Rao, Assistant Engineer,
Ex-Chief Inspector of Works,
Construction, Bangalore Cantonment. -do-
28. KG Sathymurthy, Assistant Engineer,
Ex-Chief Permanent Way Inspector, Madurai. -do-

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| 29. V Raghunathan, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Madras Central. | Through the Chief
Personnel Officer, Head-
quarters Office, Park
Town PO, Madras-- 3. |
| 30. S Anantha Rao, Assistant Engineer,
Ex-Inspector of Works,
Construction, Bangalore Cantonment. | -do- |
| 31. KS Seshadri, Assistant Engineer,
Ex-Inspector of Works, Mysore. | -do- |
| 32. E John Samuel, Assistant Engineer,
Ex-Permanent Way Inspector, Palghat. | -do- |
| 33. G Jebarathinam, Assistant Engineer,
Ex-Permanent Way Inspector, Headquarters. | -do- |
| 34. K Chitravel, Assistant Engineer,
Ex-Permanent Way Inspector,
Tiruchirappalli. | -do- |
| 35. KA Palaniswamy, Assistant Engineer,
Ex-CDA, Construction, Madras Egmore. | -do- |
| 36. KA Palaniswamy, Assistant Engineer,
Ex-CDA, Construction,
Madras Egmore. | -do- |
| 37. G Adikesavalu, Assistant Engineer,
Ex-Inspector of Works,
Construction, Madras Egmore. | -do- |
| 38. CP Govindankutty, Assistant Engineer,
Ex-Inspector of Works,
Trivandrum Central. | -do- |
| 39. S Ramamurthy, Assistant Engineer,
Ex-Inspector of Works,
Construction, Bangalore Cantonment. | -do- |
| 40. MV Venkataramu, Assistant Engineer,
Ex-Inspector of Works,
Construction, Bangalore Cantonment. | -do- |
| 41. S Narayanaswamy, Assistant Engineer,
Ex-Inspector of Works,
Construction, Madras Egmore. | -do- |
| 42. R Gopinathan Nair, Assistant Engineer,
Ex-Chief Permanent Way Inspector, Shencottai. | -do- |
| 43. R Jambunathan, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Southern Railway, Institute of
Civil Engineering Technology, Tambaram. | -do- |
| 44. G Thayappan, Assistant Engineer,
Ex-Chief Permanent Way Inspector (WST). | -do- |
| 45. BN Krishnamurthy, Assistant Engineer,
Chief Permanent Way Inspector,
Tiruchirappalli. | -do- |

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46. S Ranganathan, Assistant Engineer,
Ex-Chief Permanent Way Inspector,
Ponneri. Through the Chief
Personnel Officer, Head-
quarters Office, Park
Town PO, Madras--3.
47. PN Venkatanagarathinam, Assistant Engineer,
Ex-Inspector of Works, Avadi. -do-
48. C Sampath Kumar, Assistant Engineer,
Ex-Inspector of Works, Bangalore City. -do-
49. KN Ekanathan, Assistant Engineer,
Ex-Inspector of Works,
Construction, Salem. -do-
50. C Somasekaran, Assistant Engineer,
Ex-Inspector of Works, Mambalam. -do-

....Respondents

R.1-4 by Advocate Smt Sumathi Dandapani.

The application having been heard on 21st August, 1996,
the Tribunal delivered the following on 23rd August, 96:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, a Chief Bridge Inspector in the Southern Railway, is an aspirant for the post of Assistant Engineer Group 'B' by promotion. Having successfully completed the written examination, in which he secured 100 marks out of 150, he appeared for the viva voce test. The rules R1 prescribe 25 marks for the viva voce and 25 marks for Record of Service and to be successful, a candidate has to secure a total of 30 marks in viva voce and Record of Service, with at least 15 marks out of 25 in Record of Service. Applicant secured 20 marks in Record of Service, but only nine in the viva voce, making a total of only 29 as against 30 marks required and was, therefore, not included in the panel A1 of those to be promoted. Applicant approached the Tribunal in OA 864/93 and his representation was directed to be considered. A2 order dated 28.9.93 was the outcome. Applicant challenges A2 on the ground that there is no application of mind and no attempt to go

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into the merits of the case and also seeks to quash A1 panel. He has also challenged Rule 204.1 of Chapter II, Section A of the Indian Railway Establishment Manual in so far as it prescribes 25 marks each for the viva voce and Record of Service without providing objective standards for assigning marks.

2. Respondents state that marks are awarded based on the grading in the Confidential Reports of five years, on a scale ranging from one for "below average" to five for "outstanding" to arrive at the marks for Record of Service (R.II). Applicant had no grading of "Outstanding" and got the maximum marks otherwise possible, that is, 20. The viva voce was conducted by three senior officers belonging to three different departments. The procedure of selection had been upheld by a Full Bench of the Tribunal in OAs 303, 304 and 422 of 1992 of the Bangalore Bench, reversing the decision of the Ernakulam Bench in A Radhakrishnan v General Manager, Southern Railway, Madras & Others, (1993) 23 ATC 146 and K Yesodharan v General Manager, Southern Railway, (1991) 4 SLR 396. The order A2 has clearly stated that applicant was not selected because he could not obtain the minimum marks required in the combined viva voce and Record of Service. Respondents have also stated that the Rule 204.1 challenged had been modified, eliminating a separate minimum for viva voce.

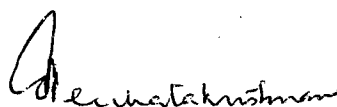
3. Applicant has produced 30 certificates and commendations (A-14 series) awarded to him to show that he is a meritorious candidate who richly deserves the promotion. But the selection process involves comparison of the merit of the applicant with that of his peers, and not absolute merit. We called for the Confidential Reports of the applicant and find that for the material years, he has not secured any "Outstanding" grade, but only "Very Good", which has earned him 20 marks out of 25 for Record of Service. As regards


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the viva voce, we called for and perused the proceedings of the Selection Board. The seniority of the last person on the panel is 60 excluding five juniors, who were selected on account of their outstanding performance. Within this range, 14 persons have been disqualified on the ground that they had not secured the required minimum of 30 marks out of 50 in the combined viva voce and Record of Service--none had been disqualified on the ground that they had not secured the minimum of 15 marks in Record of Service--and out of these 14, only three have secured total marks less than that of the applicant. In other words, 11 persons who have secured more marks overall than applicant, have been disqualified. Further, nine of those who had been disqualified had secured more marks than the applicant in the viva voce. There are as many as six persons among those empanelled who have secured 24 or 25 out of 25 marks in Record of Service. No mala fides have been alleged against any of the members of the Selection Board, the members of which were the Chief Engineer, the Chief Personnel Officer and the CMM/I/Per (Chief Materials Manager I, Perambur). We do not, therefore, find any impropriety in the award of marks for the viva voce or in the non-selection of the applicant.

4. The application is without merit and is accordingly dismissed.
No costs.

Dated the 23rd August, 1996.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

C.P.C. 87/95 in DA 608/95

Tuesday, this the 25th day of July, 1995.

C O R A M

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

P. Mammu

... Petitioner

By Advocate Mr. TCG Swamy

vs.

Mr.A.P.Murugesan,
Chief Engineer,
Southern Railway,
Head Quarters Office,
Madras - 3.

... Respondent

By Advocate Mrs.Sumathi Dandapani

The application having been heard on 25th July 1995,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

The facts of this case, and the circumstances in which it arose are similar to those in C.P(C) Nos.65/95 in DA 587/95, C.P(C) No.68/95 in DA 601/95, C.P(C) No.69/95 in DA 607/95, C.P(C) No.79/95 in DA 712/95 and C.P(C) No.88/95 in DA 564/95. We think that this case also should be governed by the orders in the above cases. We discharge the notice and dismiss the petition. No costs.

Dated, 25th July, 1995.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

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