

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA 81/99

Thursday this the 21st day of June, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. C.Srinivasan
S/o C.Chellan Pillai
Senior Trolleyman
Senior Assistant Engineer's Office
Southern Railway, Podanur.

2. K. Balakrishnan
S/o N. Karuppaman
Senior Gangman
Office of Section Engineer (Permanent Way East)
Southern Railway, Podanur

[By advocate Mr.P.Santhosh Kumar]

Versus

1. Union of India represented by the
The General Manager
Southern Railway, Chennai.
 2. The Divisional Railway Manager
Southern Railway, Palakkad.
 3. The Senior Divisional Personnel Officer
Southern Raiway, Palakkad.
 4. K. Shanmugham
Supervisor/Permanent Way
Office of Section Engineer/Permanent Way
Southern Railway, Erode.
 5. V. Nalamaharajan
Supervisor/Permanent Way
C/o Section Engineer/P. Way
Railway Quarters No. KRR-25
Karur-639 001.
 6. K.R.Doraisamy
Supervisor/Permanent Way
Office of Section Engineer/Permanent Way
Southern Railway, Thiruppur.
 7. M.Karuppannan
Supervisor/Permanent Way
Office of the Section Engineer/Permanent Way
Southern Railway, Palaiyam.
 8. V.G.Sudhakaran
Supervisor/Permanent Way
Office of Section Engineer/. Permanent Way
Southern Railway, Kasargode.

9. P.V.Padmanabhan
Supervisor/Permanent Way
Office of Section Engineer/Permanent Way
Southern Railway, Mangalore.
10. A.Bharathi
Supervisor/Permanent Way
Office of Section Engineer/Permanent Way (East)
Southern Railway, Palakkad.
11. M.Mohanam
Supervisor/Permanent Way
142, East Pudur, Najundapuram P.O.
Coimbatore.
12. V.C.Subramaniam
Supervisor/Permanent Way
Office of Section Engineer(Permanent Way)
Southern Railway, Cannanore. Respondents.

[By advocate Mrs. Sumathi Dandapani.]

The application having been heard on 21st June, 2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A-3 & A-5, to declare that the selection and promotion of respondents 4 to 12 as illegal and to direct respondents 1 to 3 to conduct a fresh selection duly assessing the vacancies correctly and in the alternative to direct respondents 1 to 3 to enlarge A-3 panel duly assessing the vacancies correctly in accordance with the rules.

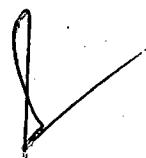
2. First applicant is a Senior Trolleyman, and the second applicant is a senior Gangman. The 3rd respondent as per A-1 called volunteers from among Gangman, Keyman and Gangmate for filling up 11 vacancies of Supervisor/Permanent Way. Applicants volunteered. Written test was held. The applicants came out successful. All others answered the question papers in the regional languages. They were awarded more marks in the written examination. The applicants were called for viva-voce.

They were not selected and included in A-3 panel containing the names of persons selected and empanelled as Supervisor/Permanent Way. After publication of A-3 the administration initiated another selection for filling up 6 vacancies as per A-5. A-3 and A-5 are liable to be quashed.

3. Respondents resist the OA contending that the post of Supervisor Permanent Way is a safety category post. It is filled up as follows:

- (i) 50% through departmental test from Gangmates and Keymen with a minimum of 2 years service and who are willing to be posted as such.
- (ii) 25% by Limited Departmental Competitive Exam from Gangman, Keyman and Gangmate having qualification of 1+2 with science and maths with 3 years experience. Shortfall if any is to be made good from Gangman, Keyman, Mates having qualification of Matriculation/HLSC with minimum three years regular service. Further shortfall to be added to direct recruitment quota vacancies.
- (iii) 25% by recruitment through Railway Recruitment Board.

Since the employees are permitted to answer in their regional languages, the answer papers can be valued only by those who are conversant with the particular language. The extant instruction on the subject permits the employees



volunteering for the post of Permanent Way Supervisors to answer the departmental test in their regional language. For being placed on the panel, one should secure 60% marks in the written test and 60% in the aggregate. Merely securing qualifying marks in the written examination will not entitle an employee for being empanelled automatically.

4. The first ground raised by the applicants is that since the answer papers in Tamil were evaluated by the Senior Assistant Engineer and the answer papers in Malayalam were evaluated by another Senior Assistant Engineer, there was no uniform assessment of candidates. The same is in conflict with para 219 (b) of Indian Railway Establishment Manuel Vol.I. Para 219 (b) of I.R.E.M. Vol.I reads thus:

"(b) An officer of the concerned Department who is also a member of the Selection Board must be authorized to set the question paper for written test. Where possible, another Officer who is also a member of the Selection Board should be nominated to evaluate the answer books, if such a test is held as a part of the Selection or determining the professional ability. The test should be confidential system with roll numbers." (Emphasis supplied).

5. So it is clear that nomination of another member of the Selection Board for evaluation of the answer books is necessary only where possible and not in all cases. Thus it is not a mandatory provision. It does not create any bar for nominating another officer to evaluate the answer papers especially in a case like this where the answers are in Malayalam and Tamil. So this ground cannot be upheld.



6. Applicants say that the papers in regional languages were valued liberally and because of that the persons who answered in regional languages got more marks. Respondents have answered this aspect by saying that key was provided for all the questions and hence there was uniform assessment. What is the basis on which the applicants say that those candidates who answered in the regional languages were awarded more marks by having a liberal evaluation is not known. What the applicants say is that "it is also reliably understood that they were awarded more marks in the written examination". What is the source of that information is not disclosed and is kept as a top secret. Simply by saying that it is reliably understood that those who have answered in the regional languages got more marks due to liberal evaluation, it cannot be accepted in the absence of any evidence in support of the same. There is no evidence in support of the same.

7. Another ground raised is based on para 215 (f) of I.R.E.M. Vol.I. This provision says that the assessment of vacancies for selection post with the cadre will include the existing vacancies and those anticipated during the course of next one year plus 20% of anticipated vacancies for unforeseen contingencies. Respondents have categorically stated that the post of Supervisor Permanent Way is filled up through departmental test from Gangmates and Keymen with a minimum of 2 years service and those who are willing to be posted as such to the extent of 50%, 25% by Limited Departmental Competitive Examination from Gangman, Keyman and Gangmate having qualification of 10+2 with Science and Maths with 3 years

experience and remaining 25% by direct recruitment through Railway Recruitment Board. Applicants here come in that first 25% quota. In order to say whether there is any infringement of para 215 (f) of I.R.E.M. Vol.I it is necessary to know the total number of vacancies. The applicants have not stated anything on this aspect in the OA.

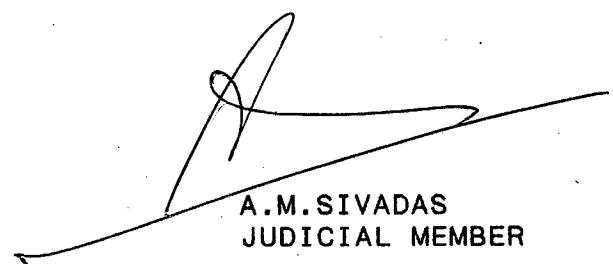
8. Respondents have taken a specific stand that one should secure 60% marks in the written test and 60% in the aggregate and merely securing the qualifying marks in the written examination will not entitle an employee for being empanelled automatically. There is no denial of the stand of the respondents by filing a rejoinder. That being the position, even though the applicants have come out successful in the written test, that itself will not entitle them for being empanelled as a matter of course.

9. Accordingly the OA is dismissed. No costs.

Dated 21st June, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

Annexures referred to in this order:

- A-3 True copy of order No.J/P.531/IX/PWM/Vol.XII dated 14.9.98 of the 3rd respondent.
- A-5 True copy of order No.J/P.531/IX/PWM/Vol.XII dated 28.10.98 of the 3rd respondent.
- A-1 True copy of order No.J/P.531/IX/PWM/Vol.XII dated 16.4.98 of the 3rd respondent.