

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 10 of 2007

Monday, this the 21st day of July, 2008

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE DR. K S SUGATHAN, ADMINISTRATIVE MEMBER

G.S. Manoj,
S/o. Gopinatha Panicker,
Station Master Grade III,
Parapanangadi, Palghat Division,
Southern Railway, Residing at
'Sanswan', Chelari, Malappuram Distt.

... Applicant.

(By Advocate Mr. Shafik M.A.)

v e r s u s

1. Union of India, represented by
The Chairman, Railway Board,
New Delhi.
2. The General Manager,
Southern Railway, Headquarters Office,
Chennai.
3. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Chennai.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.

... Respondents.

(By Advocate Ms. P.K. Nandini)

The Original Application having been heard on 21.07.08, this Tribunal on the same day delivered the following:

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The question involved in this case is whether the pre-promotional 21 days training imparted exclusively to the SC/ST candidate before they take

up the promotional exam under the 10% departmental quota for certain posts including Station master Gr.III is violative of provisions of Article 16 of the Constitution.

2. The above question has been answered in an identical case in O.A. No. 790 of 2006 decided on 26th April, 2007, whereby that O.A. was dismissed. Paras 2 to 9 thereon are reproduced below:

2. The Facts: The Applicant herein having joined as Asst. Station Master in February, 1998 in Madras Division got himself transferred to Palghat Division in January 2001 and having completed 6 years in the grade is eligible to take up the departmental Promotion examination for the post of Station Master Gr. III. On qualifying in this exam, the qualified individuals are sent for pre-promotional training for a duration of 2 years and on successful completion of that exam, promotion takes place. Annexure A-1 order dated 11-09-2006 refers. This pre-promotional training is mandatory, vide Annexure A-2 orders of the Railway Board and the correction slip at Annexure A-3. The applicant was one of the candidates alerted for taking up this examination, vide Serial No. 63 of Annexure A-1.

3. The applicant having learnt that certain training is imparted to the SC/ST candidates before taking up the examination, wanted to participate in that examination so that he too would be well equipped with the subject matter and be in a position to attend the qualifying examination. The training is stated to have been so discreetly arranged that on telephonic information SC/ST candidates are relieved of their duties and as such, there was no possibility of the applicant to undergo this training before the examination. Challenging this discrimination as violative of the provisions of Art. 14 and 16 of the Constitution, the applicant has approached this Tribunal for a declaration that such a training before conducting the exam should be given also to all other eligible candidates irrespective of whether they belong to general category or reserved category. He relies upon the Advance Correction Slip No. 1/2002 (Annexure A-3) which removed the distinction between pre-promotional and promotional training and made such training as mandatory.

4. Respondents contested the OA. According to them, vide P.B. Circular No. 181/2003 (Annexure R-2) clarifies the scope and extent of order dated 25-02-2002 (Annexure A-2 as also Annexure R-1) that successful completion of the training is mandatory for safety category and hence shall before being

promoted to a higher post. The instruction does not imply that all eligible candidates in the zone of consideration have to be necessarily imparted training before the selection process. Training given to the SC/ST category before taking up the examination is in accordance with the provisions contained in the Railway Board's letter dated 26th January 1974 (Annexure R-5) which states that *"In order to improve the representation of Scheduled Castes and Scheduled Tribes in services, all eligible candidates from reserved communities who are otherwise eligible and are likely to come under consideration for a post should be given a special suitable pre-selection coaching by Railway Administration so that they may perform better in the written test as well as viva voce."* It has also been stated in the counter that as per order dated 8th November, 1993 (Annexure R-7), pre-selection training imparted to the SC/ST is mandatory for SC/ST only and not to others.

5. Counsel for the applicant argued that pre-promotional training should be given to all as the same is mandatory. The distinction between pre-promotional and promotional training having been removed and all such training being treated as promotional training, there shall be no discrimination on the ground of reserved category or otherwise. The contention of the applicant's counsel is that such an 'in-camera' training given exclusively to SC/ST candidates just before examination has such an adverse effect on the general candidates that apart by virtue of such crucial training SC/ST candidates in plenty qualify in the examination, whereby apart from the seats reserved for the reserved category, they come to occupy the general category vacancies as well, subject of course to the successful completion of promotional training. In order to avoid such a situation, general candidates should also be imparted training.

6. Per contra, counsel for the respondents submitted that the training imparted to SC/ST category does not come under the category of "promotional training or pre-promotional training" but is a "pre-selection" training, a training imparted to prepare the eligible SC/ST candidates so that they could well prepare and equip to face the examination and this training is in accordance with Annexure R-5 order dated 26th January, 1974. Counsel relied upon the decision of the Apex Court reported in AIR 1993 SC 477 and AIR 2000 SC 278.

7. Arguments were heard and documents perused. The scheme for promotion is that candidates should first qualify in the written exam, followed by a training for a duration of 2 years and it is on successful completion of the said training that they would be promoted to the higher grade. Training before such promotion takes place is called promotional training, which precedes promotion and hence could also be called 'pre-promotional training'. This training is certainly mandatory. However, what is given as training to SC/ST candidate for a span of 21 days prior to the very examination is not coming under pre-promotional or promotional training. Such a training

being imparted to the SC/ST candidate is, as contended by the respondents "pre-selection" training or one may call it as "training preparatory to examination" and the purpose of conducting the same to the SC/ST candidate has been given in Annexure R-5 order. This kind of special training imparted to the SC/ST candidates when questioned before the Apex Court, the Apex Court has in **Akhil Bharatiya Soshit Karamchari Sangh (Rly.) v. Union of India, (1981) 1 SCC 246**, held as under:

"59. A comprehensive programme of balancing administrative competency with adequacy of SC & ST representation was attempted by the Railway Board in Annexure M which provided for in-service training for candidates who were below standard. This letter of the Board dated August 31, 1974 recalled the earlier letter of April 27, 1959 which provided:

While filling the posts on promotion, however, candidates of three communities should be judged in a sympathetic manner and arrangements made where necessary to give to such staff additional training and coaching, to bring them up to the standard of others.

In the light of actual experience and the complex of considerations implied in Articles 16(4), 46 and 335 the Board directed, with disturbing concern for the continued exclusion of SC & ST candidates, as follows:

The matter has been further considered by the Board and it has been decided that if, during the selection proceedings it is found, that the requisite number of Scheduled Caste and Scheduled Tribe candidates are not available for being placed on the panel in spite of the various relaxations, already granted, the best among them i.e. who secure highest marks, should be earmarked for being placed on the panel to the extent vacancies have been reserved in their favour. The panel excluding the names of such persons may also be declared provisionally. Thereafter the Scheduled Caste and Scheduled Tribe candidates who have been so earmarked may be promoted ad hoc for a period of six months against the vacancies reserved for them. During the said six months period, the Administration should give them all facilities for improving their knowledge and coming up to the requisite standard, if necessary by organising special coaching classes. At the end of the six months period, a special report should be obtained on the working of these candidates and the case put up by the Department concerned to the General Manager through SPO (RP) for a review. The continuance of the Scheduled Caste and Scheduled Tribe candidates in the higher grades would depend upon this review. If the candidates are found to have come up to the requisite standard, their names would be included in the panel and the vacancies dereserved and filled in the usual manner by candidates

from other communities.

The procedure indicated in the preceding para would also apply to promotion to the posts if led on the basis of seniority-cum-suitability, with the only difference that the review at the end of the six months period would be carried out by the authority competent to approve the Select List.


This directive takes good care of harijan-girijan obtuseness, if any."

8. In view of the above, it cannot be held that there is violation of the provisions of Art. 14 or 16 of the Constitution in either sending SC/ST candidates for training or not providing such training to general categories.

9. The OA is devoid of merits and therefore, the same is dismissed. Interim order passed on 08-12-2006 is hereby vacated. No costs.

3. Since the instant case is identical to the aforesaid O.A, this O.A. also on account of the reasons given in the above O.A, is dismissed. No costs.

(dated, the 21st day of July, 2008)


(Dr. K S SUGATHAN)
ADMINISTRATIVE MEMBER


(Dr. K B S RAJAN)
JUDICIAL MEMBER

CVR.