

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.231/92

Wednesday, this the 24th day of August, 1994.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

HON'BLE MR P SURYAPRAKASAM, JUDICIAL MEMBER

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1. PG Sujatha Sudersan, Traffic Porter,
Southern Railway, Cochin Harbour Terminus.
2. K Haridasan, Traffic Porter,
Southern Railway, Trichur.
3. A Ranganatha Pai, Sweeper cum Porter,
Southern Railway, Thuravoor.
4. M Duraisamy, FCCA/Southern Railway,
Ernakulam South.
5. S Surya Kumari, SW, Southern Railway,
Cochin Harbour Terminus.
6. AK Ratnadas, Gate Keeper,
Southern Railway, Pudukkadu.
7. AK Ravindran, Traffic Porter,
Southern Railway, Now Lascar/TVC.
8. G Appu, Traffic Porter,
Southern Railway, Trivandrum Central.

....Applicants

By Advocate Shri R Santhosh Kumar.

Vs.

1. Union of India through the General Manager,
Southern Railway, Madras.
2. The Divisional Railway Manager,
Southern Railway, Trivandrum.
3. The Divisional Personnel Officer,
Southern Railway, Trivandrum.

....Respondents

By Advocate Smt Sumathi Dandapani.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants in this Original Application are Group D employees
of the Trivandrum Division of the Southern Railway, who appeared

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for the written examination for promotion to Group C cadre against the 33-1/3% quota. All, except applicants 1,3 and 5, failed to obtain the minimum marks in the combined written test and interview. Applicants 1 and 5 were included in the revised panel (Annexure R1) and were promoted as Ticket Collectors, but had to be reverted as a consequence of the orders of the Tribunal in OA 646/92 and OA 647/92. Applicant No.3 could not find a place in the panel for want of seniority.

2. Applicants challenge the panel mainly on two accounts:

(1) The selection process announced in the notification dated 4.3.85 (Annexure A5) indicates grant of marks for Service Records, whereas Rule 110 of the Indian Railway Establishment Manual prescribes only written and oral tests for selection. Group D employees do not have any Confidential Reports, and (2) the number of vacancies announced on 15.11.89 (Annexure A1) do not reflect the correct position of vacancies which have arisen during the period 1.4.84 to 31.3.89.

3. The selection which was ordered on 15.11.89 was challenged in OA 440/90. The Tribunal held that the vacancies should be separated out year-wise and the panel should be prepared year-wise. The Tribunal has accepted that the Confidential Reports should be considered and in fact has stated that "the Confidential Reports subsequent to that year should not be taken into account". In effect, the Tribunal accepted the selection made as valid since it directed that the marks in the written test and the interview of the candidates should not be altered, but the qualifying marks should be taken as 50% of the total marks obtained in the written test and interview, as prescribed by rules. Though it is admitted that there are no Confidential Records for Group D employees, it does not mean that there are no Service Records and what Annexure A5 refers to is not Confidential Records, but Service Records. It is quite reasonable for a candidate to be judged for fitness for promotion on the basis of his Service Records, which would include inter alia,

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punishments or penalties awarded. Considering that the Tribunal has already declared the selection as valid, we do not see our way to accept the first contention of the applicants stated above.

4. Applicants have made an elaborate calculation of the number of vacancies that should have been notified against the 33-1/3% quota and arrived at a figure of 103, but only 37 vacancies were alleged to have been notified. It is seen that applicants have based their calculations on the number of direct recruits who have been appointed and worked out the corresponding promotional vacancies. The direct recruits would include not only those appointed against vacancies which arose between 1.4.84 and 31.3.89, but would also include vacancies which arose during previous years. It might also happen that vacancies which arose during this period for direct recruitment were filled up only in subsequent years. The number of persons appointed through direct recruitment, cannot, therefore, be a proper basis for calculating the promotional quota. The Tribunal, therefore, directed respondents to file a statement showing how they arrived at the figure of 37. Respondents have stated:

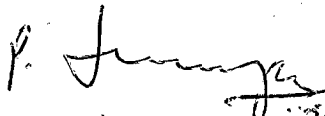
"It is seen that during the period from 1.4.1984 to 31.3.1989 a total of 119 vacancies arose in the combined group of Commercial Clerks (CC) and Ticket Collectors. The vacancies that arose in the category of Train Clerks during this period were six....It is seen that there were 41 vacancies falling under the 33-1/3% quota...During the selection against 33-1/3% quota for the period from 1.4.1982 to 31.3.1984, ...three candidates had to be additionally accommodated,...due to an order...in OA No.235/87....The three vacancies thus additionally added reduced the number of vacancies for the subsequent selection. ...keeping the three short fall vacancies of one SC and two ST for which candidates were not available, a panel for 35 employees was published..."

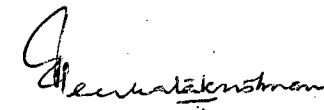
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5. It is thus seen that the number of vacancies have been arrived at following due procedure. It may also be noted that the Tribunal in OA 440/90 had put its stamp of approval on the selection which includes the notification of vacancies. It is, therefore, not possible to accept the contention of the applicants that the number of vacancies has not been correctly worked out.

6. The application is, therefore, without merit and is accordingly dismissed. No costs.

Dated the 24th August, 1994.


P SURYAPRAKASAM
JUDICIAL MEMBER


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

List of Annexures

1. Annexure A1:- Notification, dated:15-11-89
2. Annexure A5:- Letter dt. 4-3-85 No. P(RT) 531/P/Vol. XV
3. Annexure R1:- True copy of letter No. V/P 531/III/Vol. 3
dt. 21-4-1992.