

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.246/99

Thursday, this the 26th day of July, 2001.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.Karunakaran,
First Class Corridor Coach Attendant,
Southern Railway,
Coimbatore. - Applicant

By Advocate M/s Santhosh & Rajan

vs

1. Union of India represented by
the General Manager,
Southern Railway,
Chennai.
2. The Divisional Railway Manager,
Southern Railway,
Palakkad.
3. The Senior Divisional Personnel Officer,
Southern Railway,
Palakkad.
4. M.Manoharan,
Luggage Porter,
Southern Railway,
Coimbatore.
5. P.G.Krishnankutty,
Gate Keeper,
Southern Railway,
Shoranur.
6. K.P.Devamani,
Pointsman-B,
Southern Railway,
Kodumudi.
7. S.Appachetty,
Pointsman-B,
Southern Railway,
Karuppur.
8. R.Rajan,
Corridor Coach Attendant,
Southern Railway,
Erode. - Respondents

By Advocate Mr Mathews J Nedumpara(for R.1 to 3)

By Advocate Mr Asok M Cherian(for R.6&7)

By Advocate Mr TC Govindaswamy(for R-8)

The application having been heard on 26.7.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant, a member of the Scheduled Caste is working as First Class Corridor Coach Attendant in the Palakkad Division of Southern Railway. His grievance is that though he had secured qualifying mark for a pass in the examination held for promotion to the post of Ticket Collectors/Train Clerks, as per the relaxed standard applicable for members of SC/ST, in the panel prepared and circulated on 16.12.98(A-3), his name was excluded while the name of the 4th respondent, who does not belong to SC is seen to have been empanelled against the vacancy of SC and the names of respondents 5 to 8 who are juniors to the applicant have been included. Aggrieved by this, the applicant made a detailed representation to the second respondent which did not evince any response. Therefore, the applicant has filed this application seeking the following reliefs:

- i) to declare that the empanelment of the 4th respondent in A-3 for promotion to the post of Ticket Collector/Train Clerk in the Scheduled Caste vacancy is illegal;
- ii) to declare that the empanelment of respondents 5 to 8 on relaxed standard in preference to the

applicant for promotion to the post of Ticket Collector/Train Clerk as illegal;

iii) to set aside A-3 to the extent it includes respondents 5 to 8;

iv) to direct the respondents 1 to 3 to include the name of the applicant in A-3 and also direct to promote him to the post of Ticket Collector/Train Clerk.

2. The respondents 1 to 3 in their reply statement have contended that the allegation that the 4th respondent has been empanelled against an SC vacancy is not correct, though mistakenly against his name SC was written in the panel, that the 8th respondent is in fact not junior to the applicant, but senior, and that the applicant's name was not recommended by the Selection Committee and therefore, his name was not included. The official respondents, therefore, contend that the applicant does not have a legitimate grievance calling for redressal.

3. The 8th respondent has filed a reply statement in which he states that the contention of the applicant that the 8th respondent is junior to the applicant is incorrect, he having joined service on 15.10.80 while the applicant has joined only on 18.8.82. Therefore, he contends that the claim of the applicant as against him is not sustainable.

4. Respondents 4 to 7 have not filed any reply statement.

5. With a view to ascertain whether a due process of selection has been made, we directed the official respondents to make available the file relating to the selection. The respondents' counsel produced the file for our perusal. On a scrutiny of the file, it is seen that according to the procedure for selection, a candidate must obtain a minimum 50% marks in the professional ability (i.e. 37.5 out of 75 in the written examination and viva) and 50 marks in the aggregate for being placed in the panel. In the case of SC employees, they need to get a minimum of 40% marks in the professional ability (i.e. 30 out of 75 in the written examination and viva) and 40 marks in the aggregate against SC/ST vacancies only. Though the official respondents have in the reply statement contended that the Selection Committee did not recommend the applicant's name, it has not been made clear as to what were the marks obtained by the applicant in professional ability and in the aggregate. We have gone through the list of selection. The applicant's name is shown at Sl.No.23, wherein it is seen that the applicant had obtained 34 marks in the written exam and viva, as against 30, and 44 in aggregate as against 40, as per the relaxed standard for SC. We find absolutely no reason why the Selection Committee did not recommend the applicant's name. The applicant, having obtained 34 marks in the written test and viva and 44 marks in the aggregate, should have been selected and placed in the panel at appropriate place. The action of the official respondents in not placing the applicant in the panel and not promoting the applicant is unsustainable in law.

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6. In the light of what is stated above, the applicant is entitled to succeed in this application. It is admitted by the learned counsel for official respondents that vacancies are there and without disturbing anybody who had been promoted from the panel, it would be possible to accommodate the applicant.

7. In the result, the application is disposed of with the following declaration/direction:

i) The action of the official respondents in not including the applicant in the panel at A-3 is unsustainable in law and opposed to the guidelines regarding the selection and preparation of panel. The applicant having obtained 34 marks in the written test and viva and 44 marks in the aggregate while the required minimum marks are only 30 and 40 respectively as per relaxed standard for SC/ST is declared entitled to be included in the panel.

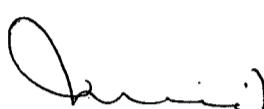
ii) We direct the official respondents to include the applicant's name at the appropriate place in the panel A-3 on the basis of his seniority and to appoint him to the cadre of Ticket Collector/Train Clerk on the basis of his merit in the examination and seniority and to fix his pay and seniority with effect from the date persons junior to him were appointed. We also direct that the applicant shall be given the consequential monetary benefits flowing from such appointment with retrospective effect from the due date.

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iii) The above direction shall be complied with within a period of three months from the date of receipt of copy of this order.

iv) There will be no order as to costs.

Dated, the 26th July, 2001.


T.N.T. NAYAR

ADMINISTRATIVE MEMBER


A.V. HARIDASAN

VICE CHAIRMAN

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

A-3: True photostat copy of order No.J/P.531/VIII/Vol.9 dated 16.12.98 of the 3rd respondent.