

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 382/91
XXXXXX

1991

DATE OF DECISION

24-8-91

Smt. N. Savithri & another Applicant (s)

Mr. P. Santhosh Kumar Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
the General Manager, Southern
Railway, Madras & 22 others

Mr. M. C. Cherian (R. 1 - 5) Advocate for the Respondent (s)
Mr. M. Ramachandran (R. 12, 13, 15 & 21)

CORAM:

The Hon'ble Mr. P. S. Habeeb Mohamed, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

Applicants are at present working as Senior Section Officers in the Southern Railway under the 4th respondent. They are aggrieved by the refusal to include their names in the list of Assistant Accounts Officers prepared after selection by the Southern Railway. Annexure-I is the list.

2. The applicants were promoted as Senior Section Officers in the year 1987. Next higher post to which a Senior Section Officer can be promoted is the post of Assistant Accounts Officer which is the lowest category in the managerial cadre. The selection to the post of

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Assistant Accounts Officer is to be made on the basis of seniority-cum-suitability to be decided on the basis of competitive examination. 75% of the posts are set apart for filling up from the employees on the basis of seniority-cum-suitability and 25% of the posts are earmarked to the employees who have completed five years of continuous service in the grade, the minimum of which is Rs.1400/- and who have passed Appendix-IIIA examination. They have also participated in the Assistant Accounts Officers examination held on 17.8.1990. Both the applicants were called for viva-voce after the written examination. Since they have faired well both in the written examination as well as in the viva-voce examination they were confident that they would be selected. But contrary to their expectations respondents 6 to 23 who were juniors to the applicants were included in Annexure-I select list of 39 persons prepared by the Railway for appointment as Assistant Accounts Officers. They allege malafide in the selection and the allocation of the marks to the selected candidates. The syllabus does not prescribe any separate minimum marks for the written examination and viva-voce. The allocation of the marks under the existing rules is as follows:-

	<u>Maximum marks</u>	<u>Qualifying marks</u>
(i) Professional ability		
- Written test	25	
- Viva-Voce	25	30
(ii) Record of Service	25	15
(iii) Personality, address leadership & Academic qualifications	25	15
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	100	60
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It can be seen from the aforesaid allocation of marks under the Railway Board instruction and the syllabus

that a maximum of 50 marks are provided for written and viva-voce. At the same time the qualifying marks for both written test and viva-voce is shown as 30. Because of the failure of the administration to fix separate minimum marks a candidate who get only five marks in the written test can be given the maximum marks of 25 for viva-voce and make him qualify for the selection. This also gives way for the undue favouritism. The applicants further allege that M/s. P. Chidambaram, M.Rajaram Dikshit, M.J.Mathew and K.Parthasarathy were all persons not having any outstanding performance in their credit while they were working as Section Officers and Senior Travelling Inspector of Accounts. They were selected only because the 5th respondent had shown undue interest in them and had given more marks in the viva-voce. It is also alleged that 5th respondent Board had selected persons who have not scored any mark in the written test. Hence, the selection proceedings are vitiated and Annexure-I is liable to be set aside. The representations submitted by the applicants were not considered. Hence, they have filed this application under Section 19 of the Administrative Tribunals Act 1985 for quashing Annexure-I panel and for a direction to the respondents to promote the applicants to the post of Assistant Accounts Officer and to declare that they are qualified to the post of Assistant Accounts Officer.

3. The learned counsel for the applicants relying on the judgments of this Tribunal in A.Radhakrishnan vs. The General Manager, Southern Railway, Madras & others, O.A. No.149/92 and E.Sethumadhavan vs. The General Manager, Southern Railway, Madras & others, O.A.837/91 and K.Yeso-dharan vs. General Manager, Southern Railway & others, 1991 (4) SLR 396 argued that the facts in these cases are identical and it is to be allowed following the judgments of this Tribunal.

4. We have gone through the judgments but we are of the view that the facts in those cases are distinguishable. The question considered in those cases was about the fixation of minimum marks for viva-voce. But in the instant case the applicants contention is that because of the failure of the administration to fix separate minimum marks for the written examination and viva-voce there is possibility of manipulation in the allotment of marks for favouring candidates. In fact he has alleged that the 5th respondent Selection Board had given very high marks for viva-voce to candidates who have not passed in the written examination and thereby applicants' juniors were selected. Since the facts are distinguishable we are of the view that the decisions relied on by the applicants would not be applicable. The applicants have raised specific malafide against the 5th respondent Board in ground (K) of the application. They have stated that persons in serial numbers 5, 15, 34 and 38 in Annexure-I panel are persons having no outstanding performance, but were selected and included in the Annexure-I panel only because of the interest taken by the Financial Advisor and Chief Accounts Officer, who was the head of the 5th respondent Board. This allegation has been denied by the respondents 1 to 4 in the reply. They have stated that the selection was made in accordance with law and accepted procedure by an independent board consisting of five members. In the selection 117 senior-most employees in the feeder category were allowed to appear for the written test held on 17.8.90. 98 candidates including the applicants appeared in the written examination held on 17.8.90. Supplementary written examination was also held on 31.8.90 in which only one candidate appeared. After the selection 39 persons including respondents 6 to 23 have been empanelled for

promotion. It has been approved by the competent authority namely the General Manager. The applicants who have participated in the selection both in the written examination and viva-voce were not successful, hence they were not included in the Annexure-I panel.

5. The learned counsel for the respondents, Shri M.C. Cherian, produced for our perusal the proceedings of the selection for the post of Assistant Account Officer, (Class II, Group 'B' Services). On a careful perusal of the entire proceedings we are satisfied that the proceedings were conducted and completed in a fair manner. There is no indication about any undue allocation of marks to the candidates either for the written examination or viva-voce.

6. We have examined the proceedings with special reference to the four candidates specifically referred to by the applicants in Ground (K). They are at serial Nos. 7, 26, 68 & 73 in the list of candidates prepared by the Board. The 7th person, Shri Chidambaram got 15 marks for written examination, 15 marks for viva-voce, 15 marks for personality and 15 marks for record of service. The total marks scored by him is 60 and he was found fit for selection. Similarly Shri Rajaram Dikshit at serial No.26 scored 14.75, 16, 17 and 21 respectively for written examination, viva-voce, personality and record of service. The total marks scored by him is 68.75 and hence he was also found fit for selection. The cases in respect of two other persons in serial No.68 and 73 are also more or less same. We do not see any substance in the allegation of the applicants that undue favouritism has been shown to these candidates by the 5th respondent Board in the matter of selection.

7. The applicants are not successful in establishing the allegation of malafide in the selection proceedings conducted by the respondents 1 to 5 for selection and appointment of Assistant Accounts Officers. As indicated above, after careful perusal of the selection proceedings produced by the learned counsel for the respondents 1 to 5 for perusal with the available documents of this case we are fully satisfied that the selection proceedings are valid and Annexure-I cannot be set aside accepting the contention of the learned counsel for the applicants Shri Santhosh Kumar. The representations submitted by the applicants against Annexure-I list of candidates prepared by the administration have been duly considered and rejected by the Railway. This is stated by the respondents 1 to 5 in their reply statement.

8. In the result, we see no substance in the application. It is only to be rejected. Accordingly, we dismiss the same. There will be no order as to costs.

N. Dharmadan
24.8.64

(N.DHARMADAN)
JUDICIAL MEMBER

P.S. Habeeb Mohamed

(P.S.HABEEB MOHAMED)
ADMINISTRATIVE MEMBER