

CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW

ORIGINAL APPLICATION NO. 489/1991

this the 12th day of March, 2001

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN (J)

HON'BLE MR. A.K. MISRA, MEMBER (A)

Baboo Nandan s/o Shri Ram Hit Yadav aged about 41 years, resident of Village Sondhi, Distt.-Jaunpur, employed as Cabinmen under Station Master, Northern Railway, Tanda.

....Applicant

None present.

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.

2. Divisional Railway Manager, Northern Railway, Lucknow.

3. Divisional Personnel officer, Northern Railway, Lucknow.

....Respondents

By Advocate: Shri Anil Srivastava

ORDER (ORAL)

SMT. LAKSHMI SWAMINATHAN, V.C.(J)

This case has been listed at S.No. 3 of today's cause list. However, none is present on behalf of the applicant. We have accordingly perused the pleadings on record and heard Shri Anil Srivastava, learned counsel for the respondents.

2. The applicant has impugned the order passed by the respondents dated 5.4.1991 in which 9 persons have been placed in the select panel for the post of Switchman Grade 1200-2040 (RPS) against 50% talented quota. The applicant's grievance is that his name did not find place in the select list. Hence the OA.

3. The brief facts of the case are that the applicant, who was working as Cabinman in the scale of Rs. 950-1500, was one of the candidates who was called for a written test to fill up 50% vacancies of Switchman in

the grade of Rs. 1200-2040 (RPS) against 50% talented promotional quota. The feeder categories included Cabinmen, Levermen, Gatemen, Porter, Safaiwala, Lampmen and Shuttmen. This written test was held in pursuance of Annexure-1 letter dated 31.5.1989 issued by the respondents. In this letter, the respondents have inter-alia, stated that there are 17 posts which were to be filled up as Switchmen, out of which 8 posts were reserved for SC/ST candidates and 9 posts were for general category. Out of the candidates who were called for the written test, the name of the applicant was at Sl.No. 11 of the letter dated 8.11.1990. Admittedly, the applicant qualified in the written test and was called for viva voce test by notice dated 22.1.1991 issued by the respondents. According to the respondents the applicant did not qualify in the viva voce test and, hence, his name could not find place in the select panel issued by the respondents.

4. One of the contentions raised by the applicant is that the selected candidates should have been arranged in order of seniority. The applicant, having been called for viva voce test, should have been declared as eligible for being placed in the select panel for the post of Switchmen. It is seen from Annexure 1 letter of 31.5.1989 that there were two methods of recruitment for the post of Switchmen, one by 50% recruitment through the talented quota by promotion from amongst Group 'C' and Group 'D' posts and 50 % from amongst Levermen and Cabinmen. It is not disputed by the respondents that the applicant was one of the eligible candidates, as a Cabinman who had passed class tenth. However, Shri Anil Srivastava, learned counsel for the respondents has contended that the applicant has not qualified in the viva voce test and therefore, there is no question of placing him in the select panel.

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5. In the Rejoinder, the applicant has contended that in the Annexure A-4 letter, only 9 persons have been taken in the select panel, instead of 17 persons, out of which only 2 Cabinmen and Levermen were taken in the panel, including a person who was junior to him. He has contended that still there are 6 vacancies to be filled up from amongst the Cabinmen and Levermen. He has reiterated his contention that he has qualified in the written test and was called for interview.

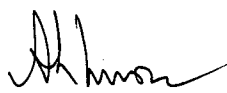
6. It is settled law that a person has a right to be considered for his promotion if he fulfills the terms and conditions laid down in the relevant recruitment rules. From Annexure A-2, it is noticed that the applicant was one of the candidates who had been called for the written test for filling up the 50% vacancies of Switchmen in the grade of Rs. 1200-2040 (RPS) against 50% talented promotional quota. At that time the applicant was a Cabinman. There were 9 out of 17 posts, at that time which were to be filled up from the general category. In the select panel issued by the respondents, the names of 9 persons have been shown, who are presumably from the general category and not from SC/ST category.

Apparently, the applicant does <sup>not</sup> belong to the reserved category but belongs to the general category. Therefore, his contention that he should have been considered for promotion against the remaining 8 posts which were reserved for SC/ST candidates cannot be accepted. There is also no doubt that the applicant had been called for written test against the 50% talented quora but could not qualify in the viva voce test which was one of the conditions in the rules. The respondents have also stated that the result of the written test was declared on 22.1.1991 as per Annexure A-3 by the Selection Board, to adjudge the professional ability and knowledge of safe working rules by the candidates in the discharge of their duties as Switchmen. The names were not placed in the order of seniority, but must have been

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prepared in the order of merit. However, as the applicant has not qualified in the viva voce test for being selected to the post of Switchmen, hence, the action of the respondents in issuing the select panel by the order dated 5.4.1991 cannot be faulted.

7. In the result, for the reasons given above, we find no merit in the O.A. The O.A. is accordingly dismissed. No order as to costs.

  
MEMBER (A)

  
VICE CHAIRMAN (J)

LUCKNOW: DATED:12.3.2001

HLS/-