

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:276/2000
DATED THE 25TH DAY OF APRIL,2003

CORAM: HON'BLE SHRI A.S.SANGHVI, MEMBER(J)
HON'BLE SHRI SHANKAR PRASAD, MEMBER(A)

Shri Ichharam Kalu Baviskar,
(Chief Law Assistant in the
Office of Chief Claims Officer,
Central Railway, Mumbai CST,
Resident of Room No.303, New Shivam
Co-op.Hsg.Society, Lalchaki,
Ulhasnagar No.4, Dist.Thane. Applicant

By Advocate Shri V.N.Tayade

V/s.

1. The Union of India, through
the General Manager,
Central Railway,
Mumbai CST.
2. Chief Personnel Officer,
General Manager's Office,
Central Railway, Mumbai CST. Respondents

By Advocate Shri S.C.Dhawan

(ORAL)(ORDER)

Per Shri A.S.Sanghvi, Member(J)

Heard Shri S.C.Dhawan learned counsel for the respondents. Shri V.N.Tayade for the applicant is not present.

2. The applicant has moved this OA challenging the notification dated 14/3/2000 and prayed for quashing and setting aside the said notification. The notification dated 14/3/2000 was issued by the respondents for the selection to the post of Law Officer in the grade of Rs.7500-12000 (RSRP) in the General Manager Cadre, Class-II. The notification also provided a list of candidates eligible for taking the selection and the grievance of the applicant is that his name was not shown in the eligibility list even though he was a Senior Law Assistant.

According to the applicant he belongs to Scheduled Caste and was selected for the post of Law Assistant Class-III in the year 1987. He had completed graduation in Arts in 1973 and obtained Degree in Law in the year 1982 and consequently selected on the post of Law Assistant in 1987 and promoted as Chief Law Assistant w.e.f. 1/7/1991. He has further contended that in the notification dated 14/3/2000, names shown of the candidates at sr.No.3 to 8 are junior to him as they were selected as Law Assistant. In the selection notification dated 19/2/1998 for the post of Law Officer grde-I, 5 candidates were declared eligible to appear for selection including himself also. He had appeared in the written test held on 4/4/1998 but the result of the same were never declared by the respondents. Now in the notification dated 14/3/2000 though his juniors are shown to be eligible to take the selection, his name is missing. According to him even though he is the senior most in the cadre of Law Assistant, he has not been shown eligible to take selection for the post of Law Officer and as such the notification deserves to be quashed and set aside.

3. The respondents on the other hand in their reply have contended inter alia that the notification dated 14/3/2000 was issued for filling up two posts of Law Officer in the grade of Rs.7500-12000 and 8 eligible candidates as per rules were called for selection as per their general seniority. The applicant being a SC candidate and having been selected to the post of Law Assistant by relaxed standards and further promoted to the post of Chief Law Assistant against the reserved quota was not

entitled to be considered against the general post, as he was not entitled to be considered on the basis of his general seniority for the reasons stated above. His name was not included in the eligibility list. Respondents ^{have} stated that they have followed the judgements of this Hon'ble Tribunal dated 31/3/1997 in TA No.503/1987 which clearly holds that those candidates who are promoted by relaxing qualifying marks or grading will have no claim against general post for further promotion, as without relaxing of marks or grading they would not find place in the panel. They have also contended that the representation moved by the applicant was considered and replied to the applicant vide letter dated 29/3/2000. Since the applicant was not eligible for further promotion to the post of Law Officer, he is not considered eligible to take the selection for the said post. According to the respondents, the selection dated 4/4/98 was cancelled by Competent Authority by order dated 7/10/1998 and thereafter a fresh notification dated 15/10/1998 was issued wherein the name of the applicant was not included in the eligibility list. The applicant had not challenged that notification. They have maintained that since the applicant was promoted on relaxed standard, he was not eligible to contest the selection for further promotion in general category and his name was rightly excluded from the list of the candidates for selection. They have prayed that the OA be dismissed.

4. We have heard Shri S.C.Dhawan for the respondents and with his assistance we are disposing of the OA in the absence of the learned counsel for the ^{applicants} respondents.

5. There is no denial of the fact that the applicant belongs

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to the Scheduled Caste category and he was given two promotions on the basis of his belonging to the reserved category. It is not in dispute that his name is excluded from the list of the eligible candidates notified in the notification dated 14/3/2000 for the post of Law Officer in the grade of Rs.7500-12000. According to Shri Dhawan, learned counsel for respondents, the selection was to form a panel for two general candidates and since the post advertised was for general category, the applicant was not considered eligible to appear in the selection as he had received two promotions by ~~way of roster point~~ ^{"relaxed standard"}. The notification dated 14/3/2000 clearly states that the notification is for selection for the post of Law Officer Gr.B 7500-12000 (RSRP) in General Management Department - Class II (Group 'B' Service) in accordance with recruitment rules prescribed by Railway Board vide their letter No.79/E(GR)I/24/3 dt. 22/9/80. We further find that the representation of the applicant against his exclusion of his name in the eligibility list, was decided by the respondents and the decision was communicated to him vide letter dated 29/3/2000 (Anneure R-1). It is clearly stated in the letter that the representation dated 23/3/2000 submitted by Shri I.K.Baviskar received under your letter quoted above has been examined. It is advised that Shri Baviskar had passed the Law Assistant Examination in relaxed standard against the reserved vacancy of ST. He is therefore not eligible to be considered as General candidate against the general vacancy. It is also stated that Shri Baviskar was not considered eligible to appear in the written test of Law Officer in earlier selection vide notification of even number dated 15/10/1998.

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6. The applicant has in his rejoinder admitted to having received the reply to his representation and contended that the action of the respondents informing him in the letter that he was selected under relaxed standard in 2000 was a ploy to deny him selection to the post of Law Officer. ^{He has not asked for quashing of this order.} He has however not denied that his promotion as Law Assistant in 1987 and Chief Law Assistant in 1991 were not on the basis of relaxed standard. It is therefore quite obvious that once having received the benefits of the relaxed standard- received two promotion by way of relaxed standard, the applicant cannot claim a right to be considered eligible for further promotions where the panel for general candidates was to be prepared.

7. It is not disputed by the applicant also that the posts advertised were only for general candidate and they were not reserved to SC/ST candidates. In the circumstances, having received two promotions on the basis of relaxed standard of Reserved candidate, the applicant cannot claim any right to be included in the list of eligible candidates where the post advertised was for general post. We therefore find that there is absolutely no merit in the OA. Applicant has no right to claim inclusion in the eligibility list for the post of Law Officer advertised for general candidates. The OA therefore deserves to be rejected and is therefore rejected with no order as to costs.

Shankar Prasad
(SHANKAR PRASAD)
MEMBER(A)

A.S. Sanghvi
(A.S. SANGHVI)
MEMBER(J)

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