

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 103/93

Date of Decision: 22.9.1998

L.S.Sharma & Anr.

.. Applicant

Shri L.M.Nerlekar

.. Advocate for  
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri S.C.Dhawan.

.. Advocate for  
Respondent(s)

CORAM:

The Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,

The Hon'ble Shri D.S.Baweja, Member(A).

(1) To be referred to the Reporter or not ? *no*

(2) Whether it needs to be circulated to other Benches of the Tribunal ? *no*

*R.G.Vaidyanatha*  
(R.G.VAIDYANATHA)  
VICE - CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 103/1993.

Monday, this the 22nd day of September, 1998.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,  
Hon'ble Shri D.S.Baweja, Member(A).

1. L.S.Sharma,  
Railway Quarter No.RB/  
II/371/23 Bara Bungalow  
Road, Lonavala - 410401.
  2. Munnawar Rashid Khan,  
Senior Foreman Electrical  
MTP Railway Maintenance  
under Dy. C.E.E. MTP Railway. ... Applicants.
- (By Advocate Shri L.M.Nerlekar.

V/s.

1. Union of India through  
Divisional Railway Manager (P),  
Central Railway,  
Divisional Office,  
Personnel Branch,  
Bombay V.T.
2. Shri Jaisingh,  
Chargeman 'A',  
C/o.DEE (TD) Kurla,  
Bombay.
3. Shri K.G.Pagare,  
Chargeman 'A',  
DEE (TD) Kurla,  
Bombay.
4. Shri Ankush Sawlaram,  
Chargeman 'A',  
DEE (TD) Kalyan,
5. Shri T.G.Ghadge,  
Chargeman 'A',  
DEE (TD) Kalyan.
6. Shri M.S.Mansoori,  
Chargeman 'A' CEE  
Bombay V.T.
7. Shri Vinod Kumar Khebar,  
Chargeman 'A' CEE  
Bombay V.T.
8. Shri M.S.Harwat,  
Chargeman 'A', DEE (TD)  
Kalyan.
9. Shri R.N.Naidu,  
Chargeman 'A' CEE, THK,
10. Shri B.R.Yadav,  
Chargeman 'A' DEE (TD), Kalyan.
11. Shri Ravindranath Cham,  
Chargeman 'A' RE, Nagpur.

12. Shri S.W.Kadam,  
Chargeman 'A', DEE (TD) KYN.
13. Shri M.Durhal,  
Chargeman 'A', CE, BB.
14. Shri A.V.Deshpande,  
Chargeman 'A' DEE (TD) Kalyan.
15. Shri Suresh Naidu,  
Chargeman 'A' DEE (TD) KYN.
16. Shri V.K.Sukla,  
Chargeman 'A' DEE (TD) KYN.
17. Shri Harpal Singh  
Chargeman 'A' DPRE, DR.
18. Shri P.K.Sharma,  
Chargeman 'A' DPRE, DR.
19. Shri Madan T.R.  
Chargeman 'A' CE, BB.
20. Shri M.K.Nigam,  
Chargeman 'A' MTP, BB.
21. Shri U.K.Sinha,  
Chargeman 'A' MTP, BB.
22. Shri R.K.Sachan,  
Chargeman 'A' DEE (C) JHS.
23. Shri Joseph Kuruvulla,  
Chargeman 'A' DEE (TD) KYN.
24. Shri J.P.Diwedi,  
Chargeman 'A' DPRE, TNA.
25. Shri Mohd. Rafique,  
Chargeman 'A' DEE (TD) KYN.
26. Shri Dinesh Kumar,  
Chargeman 'A' DEE (TD) KYN.
27. Shri U.K.Sharma,  
Chargeman 'A' DEE (TD) KYN.
28. Shri V.S.Yadav,  
Chargeman 'A' DEE (TD) KYN.
29. Shri D.P.Singh,  
Chargeman 'A' DEE (TD) KYN.  
(2 to 29 C/o. DRM(P),  
Central Railway,  
Divisional Office Personnel Branch,  
Bombay V.T.

(By Advocate Shri S.C.Dhawan).

ORDER (ORAL)

• Per Shri Justice R.G.Vaidyanatha, Vice-Chairman.

This is an application filed by the applicants challenging the selection of candidates for the post of Foreman 'B' and for consequential benefits. The respondents have filed their reply. We have heard the learned counsel appearing on both sides and also perused the records of the

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selection process.

2. Both the applicants and the private respondents were called for selection process to the post of Foreman 'B'. The applicants were successful in the written test, they were called for interview, but in the final select list the names of the applicants did not appear. The private respondents were selected as per the final list. The applicants have, therefore, approached this Tribunal challenging the selection panel and for consequential reliefs. They have taken number of grounds in the O.A. for challenging the selection process. One of the grounds is that marks kept for viva voce was 50 as against 100 marks for written test which is contrary to the law declared by the Supreme Court. Then it is alleged that grace marks have been given to some candidates, but no such grace marks were given to the applicants. Then there is some comment on the percentage of objective type of questions in the question papers. It is therefore alleged that the whole selection process is vitiated and liable to be quashed.

3. The respondents have filed reply justifying the selection panel. They have stated that selection was made as per the prescribed procedure and rules. They have denied the allegation that 50 marks were kept for viva voce and 100 marks for written test. It is stated that the applicants had done well in the written test and therefore they were called for interview, but since they did not secure 60% of the aggregate marks for professional ability, they could not be empanelled.



4. At the time of arguments the learned counsel for the applicants pressed only three points for consideration.

The first point is that some candidates were given grace marks, but no such grace marks were given to the applicants. The applicants have not stated as to on what basis they have made this allegation in the application. They have not submitted any material in support of this allegation. We have perused the selection records and find that no such grace marks were given to any of the candidates. We find that different headings are provided for written test, interview, record of service etc. The record does not show that any grace marks were given to any of the candidates. Therefore, this argument is liable to be rejected for want of any material to support that plea.

5. The next point urged by the learned counsel for the applicant is that 50 marks were kept for interview as against 100 marks for written<sup>test</sup> and according to the dictum of the Supreme Court the marks for interview should not exceed 15%. There is no doubt about the principle of law. The applicants have not placed any material on record to support their allegation that interview marks were kept at 50.

On the other hand, the respondents have produced the original selection records before us. From the record we find that out of 100 marks, 35 marks were kept for written test, 15 marks for interview, 15 marks for seniority, 15 marks for record of service and 20 marks for personality, leadership, academic/technical qualifications etc. Therefore, as against the total marks of 100, the respondents have kept only 15 marks

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for the interview. Therefore, keeping the 15 marks for interview is certainly as per the dictum of the Supreme Court. Hence, we do not find any illegality or infirmity in keeping marks for written test and viva voce etc.

6. The next and the last submission is that the applicants case has not been properly considered. This is on the question of merits. We have perused the selection records, we find that as far as the first applicant is concerned his name is shown at Sl.No.26, he has been given 12 <sup>marks</sup> on the heading of seniority, 11 on the heading of record of service and 5 marks on the heading of personality etc. He has no doubt passed in the written test, but he has failed in the interview.

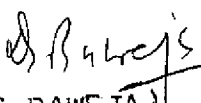
Similarly, the second applicant is shown at Sl.No.18, he has also passed in the written test. He has been given 13 marks under the heading of seniority, 12 marks under the heading of ~~record of~~ service and 6 marks for the heading of personality etc. He has also failed in the interview.

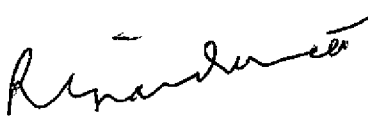
The record shows that both the applicants have failed to secure 60% of the professional ability marks and again failed to secure 60% in the aggregate. The first applicant has secured 58 marks in the total aggregate and second applicant has secured 57 marks in the total aggregate.

Therefore, we find that the respondents have allotted marks to both the applicants under several headings, but unfortunately, they have failed to get 60% of the total aggregate and 60% of the professional ability. In the circumstances, we hold that there is no illegality or infirmity in the selection process, but the applicants have failed because of getting lesser marks.

7. No other grounds were <sup>urges</sup> ~~alleged~~ before us. After perusing the records, we are satisfied that the applicants have not been empanelled for not getting 60% in the professional ability and 60% in the aggregate. The selection has been done as per rules. Hence there is no merit in the O.A.

8. In the result, the application fails and is dismissed. No costs.

  
(D.S. BAWEJA)  
MEMBER (A)

  
(R.G. VAIDYANATHA)  
VICE - CHAIRMAN

B.