

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 722 of 1993.

Dated this Wednesday, the 11th day of October, 2000.

Ab. Razzak A. & 14 Others. Applicants.

Shri G. S. Walia. Advocate for the
applicants.

VERSUS

Union of India & 339 Others. Respondents.

None present. Advocate for
Respondents.

CORAM : Hon'ble Shri Justice, Ashok Agarwal, Chairman.

Hon'ble Smt. Shanta Shastry, Member (A).

- (i) To be referred to the Reporter or not ? NO
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? NO
- (iii) Library. Yes

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(SHANTA SHASTRY)
MEMBER (A).

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CORAM : Hon'ble Shri Justice Ashok Agarwal, Chairman.
Hon'ble Smt. Shanta Shastry, Member (A).

1. Ab. Razzak A.
2. Ismail, M.
3. Ashok, G.
4. Jagannath, E.
5. Shaikh Nazir.
6. Ab. Rashid, Y.
7. Ab. Mustaq, U.
8. Govind, M.
9. Jagan, B.
10. E.P. Menon.
11. Ramlal, J.
12. Vasant, M.
13. Ab. Gaffar, A.
14. Abdulla, J.
15. Ashok G. Muley.

All working as Shunters/Offg. Goods
Driver/Asstt. Driver at Nandurbar,
Western Railway.

16. Mahanarayan, S.
Working as Dirver Gr. 'C'
at Udhna, Western Railway.

... Applicants.

(By Advocate Shri G. S. Walia).

VERSUS.

1. Union of India through
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
2. Divisional Railway Manager,
Bombay Division,
Western Railway,
Bombay Central,
Bombay - 400 008.
3. Mangabhai, B.
4. Nasmdeo, D.
5. Aziz Ahmed, N.
6. Randhir, P.
7. Phiroz, R.

8	Rajaram, S.	)
9	Raghubhai, K.	)
10	Santoo, K.	)
11	Abdul Barik, A.	)
12	Ramprakash, K.	)
13	V.G. Pisat	)
14	Abdul Kayyam	)
15	Motichand, S.	)
16	Hamid Ahmed, M.	)
17	Hamidulla, C.	)
18	Kashinath, J.	)
19	Nizamuddin, A.	)
20	Gangadhar, N.	)
21	Uttambhai, N.	)
22	Deoji, k.	)
23	Baloo, S. (No. 1)	)
24	Vinodchand, A.	)
25	Dhiru, G.	)
26	Jemi, B.	)
27	Niaz Ahmed, N.	)
28	A.N.S. Tiwari	)
29	Sumantrai, N.	)
30	Dungarsingh, D.	)
31	Thakorbbhai, J.	)
32	Hemraj, N.	)
33	Dhansukhlal, C.	)
34	Shamsherkhan, M.	)
35	Ishwarlal, P.	)
36	Liladhar, J.	)
37	Jayantilal, P.	)
38	Charan, V.	)
39	Bhagwan. D.	)
40	Baboo Bhagwan	)
41	Matapher, G.	)
42	Maganlal, D.	)
43	Jayantilal, N.	)
44	Mohanbbhai, M.	)
45	Sayedali, J.	)
46	J. Brown	)
47	Sitaran, M.	)
48	Ishwarlal, N.	)
49	Vithal, J.	)
50	A.B. Kamble	)
51	Mohanlal, R.	)
52	J.R. Nariman	)
53	Ramabhai Rawal	)
54	Ismail, Y.	)
55	Hussain Miya, Y.	)
56	Mohanlal, K.	)
57	Sadanand, S.	)
58	Kantibhai, D.	)
59	Raman, F.	)
60	Amritlal, N.	)
61	Ramkaran. B.	)
62	Yusuf, I.	)
63	Matabar, Pd. R.	)
64	Pasha, K.	)
65	Khandoo, A.	)
66	Shah Abdulla, I.	)
67	Sikandar Khan, C.	)
68	Mirza Gulam, A.	)
69	Mustak Ali, M.	)
70	Vasant, N.	)
71	Mangesh, N.	)
72	Banabhai, C.	)
73	Esaz Ahmed.	)

74	Vasudeo, B.	)
75	Ramoo, K.	)
76	Hamid, R.	)
77	Yusuf, F.	)
78	Narsingbhai, J.	)
79	Mahadeo, S.	)
80	Daljibhai, V.	)
81	Somabhai, F.	)
82	Nihalchand, S.	)
83	Ravjibhai, B. (No.2)	)
84	Manilal, U.	)
85	Mohd. Ismail (No. 1)	)
86	Vallabh, T.	)
87	Abdul Kadar, M.	)
88	Ramlal M. Modi	)
89	A.K. Chawan	)
90	Chotalal, C.	)
91	Vishwanath, R.R.	)
92	Natwar, R.	)
93	Maganbhai, B. (No. 3)	)
94	Kikabhai, C. (No.1)	)
95	Yusuf Mohd., A.	)
96	Ramchandra, G.	)
97	Hiralal, D.	)
98	Chhaganbhai, B.	)
99	Bhailal, P.	)
100	Muljibhai, P.	)
101	Chhagan, K.	)
102	Dhirubhai, B. (No.2)	)
103	Raman, Nanji	)
104	Karsan Balu	)
105	Premchand, B.	)
106	Chhanabhai, R.	)
107	Mohd. Miya, R.	)
108	Girdharilal, V.	)
109	Manohar, L.	)
110	Abdul Kadar, A.	)
111	Sanulla, A.	)
112	Kantilal, N.	)
113	Abdul Kadar G.	)
114	Husainbhai, S.	)
115	Ghansingh, B.	)
116	Rajabali, D.	)
117	N.s. Varghese	)
118	Jewan, F.R.P.	)
119	Gandia Daji	)
120	Mahtabkhan, S.	)
121	Naranbhai, S.	)
122	Chimanlal, S.	)
123	Abdul Samad, A.	)
124	Gopichand, N.	)
125	Kikabhai, C. (No. 2)	)
126	Gajanan A. More	)
127	Sabir Ahmed, I.	)
128	Abedin, G.	)
129	Narottambhai, M.	)
130	Noor Mohd., K.	)
131	Ramakant, P.	)
132	Prasanvadan, N.	)
133	Somabhai, R.	)
134	Mojan Jogi	)
135	Magan Bhagoo (No.4)	)
136	Ukad, B.	)
137	Bhailal. M.	)
138	Arvindbhai, C.	)
139	Bachu, B. (No.1)	)

140	V. Gonsalves	)
141	Abdul Gafoor, M.	)
142	Mohd. I.	)
143	B abulal, D.	)
144	Hiralal, S.	)
145	Abdul Rahid	)
146	Anwar Hussain, C.	)
147	Illiasuddin, A.	)
148	Ibrahim, M.	)
149	Shantaram, L.	)
150	Omprakash, K.	)
151	Subedar, B.	)
152	G. Keni	)
153	Chedilal, R.	)
154	Omprakash, D.	)
155	Ganpat, R.	)
156	Kantilal, G.	)
157	Indradoorai, K.	)
158	Chhibabhai, P.	)
159	Sukha, M. (No. 2)	)
160	Natwarlal, M.	)
161	Akhtar Hussain	)
162	Nanubhai, G.	)
163	Raman Govind,	)
164	Magan Ganda	)
165	Vijaysingh, M.	)
166	Magan Hari	)
167	Nagin Nathubhai	)
168	Nagarji, M.	)
169	Soma Vesta	)
170	Raya, R.	)
171	Khushalbhai L.	)
172	Chhatrapal, B. (No. 2)	)
173	Raisingh, N.	)
174	Ambelal, G.	)
175	Dayabhai, B. (No.2)	)
176	Mahipatrao, B.	)
177	Vasanji, K.	)
178	Narayanbhai, N. (No.2)	)
179	Balubhai, D.	)
180	Bhikubhai, K. (No. 3)	)
181	Naginbhai, K.	)
182	Shamlal, G.	)
183	Amritlal, J.	)
184	Bathubhai, M.	)
185	Nathubhai, S.	)
186	Arjon, K.	)
187	Chhanalal, M.	)
188	Gajanan A. Takle	)
189	A.S. Thakur	)
190	Natwarlal, K.	)
191	Ishearbhai, K.	)
192	Harnarayansingh, L.	)
193	K.C. Ocmmen	)
194	Jemmi, N.B.	)
195	N. Damodar Nair	)
196	Abdul Latif (No.2)	)
197	Geroge, A.	)
198	Mohd. Ali Z.	)
199	Prakash, Y.	)
200	Amrit Singh R.	)
201	Rampyare, A.	)
202	Mukhtar Ahmed, R.	)
203	Dayabhai G. patel	)
204	Samiuddin, V.	)
205	B. Nambiyar	)

206	Mustak Hussain, A.	)
207	Habibuddin, M.	)
208	Bahadur H. Bhagat	)
209	Niaz Ahmed	)
210	Eknath D. Mane	)
211	Abdul Hakim, A.	)
212	Ibrahim, G.	)
213	Nagindas, G.	)
214	Ishwarlal, J.	)
215	Abdul Hamid Miya	)
216	Hasmukhlal, J.	)
217	Madhukar, P.	)
218	Jagjiwan, K.	)
219	Laxman, M.	)
220	Basruddin, I.	)
221	Hasmukhbhai, I.	)
222	Sakharam, M.	)
223	Shishakant, I.	)
224	Bachubhai, R. (No. 2)	)
225	Abdul H. Issaq	)
226	Naimkhan, B.	)
227	Massoo, L.	)
228	Premchand, G.	)
229	Maksud, H.	)
230	Sk. Mahboob, B.	)
231	Ghanshyam, J.	)
232	Bhawanbhai, J.	)
233	Hasmukh, C.	)
234	Nizamuddin, A.	)
235	Ramanbhai, K. (No.2)	)
236	Balubhai, S. (No.2)	)
237	Harilal, R.	)
238	Jagdish, C.	)
239	Ramesh, F.	)
240	Ramdeo, R.	)
241	Sumantra, D.	)
242	Dhirubhai, B. (No.3)	)
243	Gulam Rasool, A.	)
244	Mohd. Salim, Y.	)
245	Malik Fakrumiya	)
246	Zandoo, D.	)
247	Mehboob, G.	)
248	Bhogendra Jha.	)
249	Chhanganbhai, V.	)
250	Omprakash, V.P.	)
251	Kamruddin, G.	)
252	Mohd. Amirkhan, P.	)
253	Bavabhai, V.	)
254	Shankarbhai, R.	)
255	Bharatbhai, D.	)
256	Victor, P.	)
257	Dhanram, R.	)
258	Amritlal, P.	)
259	Pandurang, C.K.	)
260	Uttam T. Pagare	)
261	Natwarlal, R. (No.2)	)
262	Majid Khan, U.	)
263	Kantubhai, G.	)
264	Dayabhai, R. (No.2)	)
265	Nathubhai, B.	)
266	Majidkhan, A.	)
267	G.A. Shankaran	)
268	Dayabhai, K.	)
269	Thakorbhai, L.	)
270	Mangubhai, D.	)
271	Narsibhai, C.	)

272	Dayabhai B. Patel (No.3)	)
273	Vishnuprasad, P.	)
274	Zari, S.	)
275	Rameshwar, R.	)
276	Mukund, A.	)
277	Chhabinath, R.	)
278	Ansar Ahmed	)
279	Suresh Shanker	)
280	Mohd. Illiyas	)
281	Siraj Ahmed, S.	)
282	Mohd. Ismail, N.	)
283	Sayed Mohmed, A.	)
284	Bhagubhai, F.	)
285	N.B. Jadhav	)
286	Prema Dayal	)
287	Shaukat Ali, M.	)
288	Ratnoo Ranga	)
289	Hamid Ahmed	)
290	Ptalbhai, K.	)
291	Sitaram K. Pal	)
292	Acchabarnath, R.	)
293	Sadashiv E. Kasar	)
294	Jayaram B. Yadav	)
295	Munshi, R.	)
296	Ramkrishan, K.	)
297	Nabi Ahmed	)
298	Zaki Hyder	)
299	Chhotalal, G.	)
300	Safiulla A. Latif	)
301	Bhagubhai Samabhai	)
302	Y.J. Kamble	)
303	Lalloobhai, S.	)
304	Kashinath, B.	)
305	Naginlal Deoji	)
306	Kantilal, J.	)
307	Vasubhai Narsi	)
308	Ratan Gulab	)
309	Muzaffarkhan, G.	)
310	Laxminarayan, R.	)
311	Sabir Ahmed Mohd.	)
312	Jagoobhai, G.	)
313	Yuvraj, S.	)
314	Balkrishna, B.	)
315	Mohmed Naki	)
316	Pravinchandra, R.	)
317	Abdul Rashid, A.	)
318	Abdul rashid, M.	)
319	Mohmed Nazir, B.	)
320	J.S. Fernandes	)
321	Manuswamy, M.	)
322	K.K. Neela Kandan	)
323	Shivram, B.	)
324	Abdul Hamid, A.	)
325	Rampher Ramnivas	)
326	Raman Athan	)
327	Uttam K. Salve	)
328	Chhabildas, R.	)
329	Bhailal, D.	)
330	M.K. Parmar	)
331	David, M.	)
332	Ishwarlal, B.	)
333	Peermohmed, M.	)
334	Bhula, S.	)
335	A.W. Mhatre	)
336	Gulam Ali, K.	)
337	Jagannath, R.	)

338. Nimba, K.
339. Suryakant, S.
340. Gurudayal, M. ... Respondents.

All working as Driver Gr. 'C'
(Goods Driver),
Bombay Division,
Western Railway).

(None for the Respondents.)

OPEN COURT ORDER

PER : Smt. Shanta Shastry, Member (A).

This application is against the selection for the post of Goods Driver Grade 'C' in the pay scale of Rs. 1350-2200. The applicants have prayed to set aside the said selection ^{panel dt. 8.7.1991} and to direct the Respondents to hold a proper selection.

2. The applicants are working as Shunters/officiating Goods Driver/Assistant Driver, which are the feeder categories for the promotion of Driver Grade 'C' in the Bombay Division of the Western Railway. A post of Goods Driver is a selection post to be filled on the basis of merit-cum-seniority. According to the applicants, being the senior most Shunters/Assistant Drivers, they are entitled to be considered and promoted to the same post. Normally, a selection is conducted by holding a written test and viva-voce. In the present case, no written test was held and direct interview was conducted. The selection was held on 13.03.1991 at Nandurbar for the eligible persons working at Nandurbar. According to the rules, a Selection Board shall consist of not less than three officers, one of whom should be a Personnel Officer and one of the Members should be from the

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Department other than that for which selection is held. The selection was finalised by Memorandum dated 08.07.1991. The names of the applicants were not included in the said list. The panel was declared as 'provisional' as the cases of SC/ST employees were pending on account of 40 point roster. Aggrieved by the said panel, the applicants immediately represented to the Sr. Divisional Mechanical Engineer B.C.T., on the ground that the Selection Committee was not properly constituted and the Personnel Officer supposed to be a Member of the Committee was absent. Actually, the Personnel Officer arrived late at about 14.15 hours and he joined the selection process at 15.15 hours. Further, the selection was conducted without the Service Sheets and Mark Sheets, as it was brought by the Personnel Officer only after his arrival. There was also violation of the Board's Circular dated 27.07.1969 and para 215 (A) of the Indian Railway Establishment Manual. The applicants did not receive any reply from the respondents till the filing of the O.A. The applicants are, therefore, aggrieved that in the absence of proper selection procedure the panel declared after the selection is not properly drawn up and, therefore, it is bad in law and is liable to be quashed and set aside.

3. The respondents in their written statement have submitted that the issue regarding the promotion of the Shunters for the post of Driver Grade 'C' was subjudice before the Hon'ble High Court, Ahmedabad and subsequently thereafter before the Hon'ble Tribunal at Ahmedabad in T.A. No. 13/89. Certain interim orders

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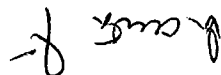
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5. We have heard the Learned Counsel for the applicants. None was present on behalf of respondents. In accordance with Rule 16 of the Central Administrative Tribunal (Procedure) Rules, we have proceeded ex-parte, as the matter is very old, pertaining to the year 1993, on the basis of merits. We find that there were a few defects in the selection procedure in that no written test was held and in the interview, the Selection Committee which should have comprised of three Members, including the Personnel Officer, did not have the full coram, atleast during the morning session of the selection. The Personnel Officer joined later in the afternoon at 15.15 hours. It has been laid down in para 218 (a) of the Indian Railway Establishment Manual that the Selection Board shall consist of not less than three officers, one of them who should be a Personnel Officer. Since the Personnel Officer was not present during the first half of the selection, we have to hold that the selection is vitiated. It appears that it was mandatory that the Selection Board should have consisted of atleast three Members. In view of this, the selection cannot be said to be a proper selection and we, therefore, quash and set aside the selection panel for the post of Goods Driver Grade 'C', as communicated by order dated 08.07.1991 (exhibit-A) and direct the Respondents to initiate fresh selection process in accordance with rules, keeping in view the interim orders passed by the Ahmedabad Bench of this Tribunal.

cost.

6. In the result, the O.A. is allowed. We do not order any

(SHANTA SHASTRY)
MEMBER (A).



OS*

(TASHOK AGARWAL)
CHAIRMAN.

