

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH  
MUMBAI

O.A.No. 793 of 1997.

Date of Order: 21-9-2001.

Between:

Chandrakant Babaji Shinde.

...Applicant

a n d

1. Union of India, through General Manager, Central Railway, Headquarters Office, C.S.T., Mumbai-400 001.
2. Chief Workshop Manager, Central Railway's Matunga Workshop, Matunga, Mumbai-400 019.
3. S.D.Sabnis, Working as Chargeman "B" Adhoc, under Chief Workshop Manager, Central Railway's Matunga Workshop, Central Railway, Matunga, Mumbai-019. To be served through Chief Workshop Manager, Matunga Workshop, Central Rly. Matunga, Mumbai-400 019.
4. R.R.Gupta, Working as Supervisor under Chief Workshop Manager, Central Railway's Matunga Workshop, Central Rly, Matunga, Mumbai-400 019, To be served through Chief Workshop Manager, Central Rly., Matunga Workshp, Central Rly. Matunga, Mumbai-400 019.

.....Respondents

Counsel for the Applicant ::Mr.G.S.Walia

Counsel for the Respondents :Mr.V.S.Masurkar

Coram:

The Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman  
The Hon'ble Smt. Shanta Shastry, Member(Admn.)

: ORDER :

(Per Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman)

The applicant has been promoted on adhoc basis as Charge man Gr.'B' on 3-5-1991. The Charge man Gr.'B' is a selection post. The selection comprises of written test as well as viva-voce in accordance with Para 219(g) of I.R.E.M. Volume-I. The applicant submits that he passed the written test on 26-2-1997. It is also stated that he for had appeared/and got through the interview as well as the medical test etc., which are required for promotion. But he was not declared selected in the panel prepared on 8-9-97. Hence, the present OA.

2. The statement of the applicant that he passed the written test was flatly denied by the respondents in the reply. It was stated that in view of the Railway Board's letter dated 5-12-1984, he was allowed to appear for viva-voce on the basis of his total marks in the written test and seniority. It was averred that he did not even secure 60% aggregate marks in professional ability, which comprises of written test and the oral test. It is submitted that as per Para 219(g) of IREM, the factors like record of service,

personality, address and seniority were to be assessed. As per these rules one should get 30% marks in written test and 60% marks in professional ability. Further he should also obtain 60% marks in the aggregate. The applicant, it is stated, did not satisfy any of these requirements.

3. We have heard the Counsel for the Applicant and the Respondents and perused the original records.

4. We have also perused the minutes of the Selection Board held on 29-6-1997. It is seen that the applicant got less than 30 marks out of 60 in professional ability, which comprises of written test and oral test. The total marks awarded to him were 50. The applicant got less than 30 out of 60. He also got less than 60% aggregate. Thus it is clear that the applicant had failed to get the minimum marks in the professional ability aggregate as well as 60% in the written test.

5. The learned Counsel for the Applicant submits that in view of the Judgement of the Supreme Court in R.C. Srivastava Vs. Union of India & Others in Civil Appeal



No.33/95, dated 3-11-1995 and as per the Circular dated 19-3-1976 issued by the Railway Board, the applicant having shouldered higher responsibilities should be treated as one level higher than the grading given to him on the basis of his ACRs for the period concerned. In other words, in his ACRs, 'Good' should be taken as 'Very Good' and if it is 'Very Good', that should be taken as 'Outstanding'. It is also argued that as per the above Circular, a person who has been working on adhoc basis in the higher post should not be declared unsuitable in the interview. But in the instance case, we are of the view that the applicant's record of service will not assume much relevance for the requirement of getting 60% of marks in professional ability. As per the rules, 60% of marks in professional ability is a requirement and the professional ability comprises of only written test and the interview. Since the applicant had failed to secure 60% of marks in the professional ability, the question of upgrading the record of service as he has been working on adhoc basis will not arise in this case. Hence, the arguments advanced on this point need not be considered at length. It should also be noted that the



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applicant failed in written test, which is also <sup>short of</sup> another requirement.

6. We will have to, therefore, hold that the selection process and the selection made by the respondents cannot be faulted as regards the applicant is concerned. We do not therefore find any warrant to interfere with the impugned order.

7. The OA therefore fails and is accordingly dismissed.  
No costs.

*Shanta Shastri*  
(Smt. Shanta Shastri)  
Member (A)

*Amulya Galantri*  
(V. Rajagopala Reddy)  
Vice Chairman

Dated: this the 21st day of September, 2001  
Dictated in the Open Court

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