

(39)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 495/93

Dt. of Decision : 4.4.1994

Syed Chingeesha

.. Applicant.

Vs

1. Divisional Railway Manager,
South Central Railway,
Vijayawada.
2. Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada.
3. Senior Divisional Operations Manager,
South Central Railway,
Vijayawada.
4. Sri P. Bangaru Shetty,
S/o not known, aged 46 years
Head Trains Clerk,
Vijayawada.
5. Sri M.V.Lakshmana Rao, aged 47 years
S/o not known, Chief Trains Clerk,
C/o Station Superintendent, SC Rly,
Rajahmundry.
6. Sri S. Gangadhar, aged 46 years
S/o not known, Head Trains Clerk,
Chief Yard Master's Office,
SC Rly, Vijayawada.

.. Respondents.

Counsel for the Applicant : Mr. J.M. Naidu

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

THE HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

ORDER

{ As per Hon'ble Shri A.B. Gorthi, Member (Admn.) }

The applicant who is working as Head Trains Clerk, South Central Railway, is aggrieved by his non selection to the post of Chief Trains Clerk. His claim is for a direction to the respondents to promote him to the post of Chief Trains Clerk in preference to respondent No. 4 to 6, with all consequential benefits.

When the applicant was working as Head Trains Clerk, he was alerted vide memo dt. 12.10.1992 for selection to the post of Chief Trains Clerk. Amongst the candidates then alerted, he was at Sl.No. 5 where as the names of respondents 4, 5 and 6 were at Sl.No. 7, 11 and 12 respectively. After the written test was held, the applicant was declared to have qualified for being called for viva-voce after adding notional seniority marks. Respondents No. 5 and 6 passed the written test without ^{and} the adding of their notional seniority marks. Respondent No. 4 however was declared qualified for being called for viva-voce after adding notional seniority marks.

On the conclusion of the viva-voce, respondents No. 4 and 5 together with Sri. P. Poornachandra Rao who was ^{admittedly} senior to the applicant were promoted to the post of Chief Trains Clerk vide office order dt. 27.2.1993. By a separate office order dt. 13.7.1993. Respondent No. 6

also was promoted to the post of Chief Trains Clerk. The grievance of the applicant is that the selection was not conducted in accordance with the rules and had the test been conducted properly, he would have been selected and promoted from the date when his juniors were ~~also~~ promoted.

3. The respondents in their reply affidavit have not disputed the material facts stated in the OA, ^{but} ~~but~~ asserted that the selection procedure was conducted in accordance with the relevant provisions of the Indian Railway Establishment Manual. As the applicant was not found suitable for selection, there would be no question of promoting him to the post of Chief Trains Clerk.

4. We have heard learned counsel for both the parties. Mr. J.M. Naidu learned counsel for the applicant stated that the manner in which respondents No. 4 (P. Bangaru Shetty) who too was called for viva-voce after giving him the benefit of notional seniority marks, was found suitable after the viva-voce, would clearly indicate that the ~~case~~ of the applicant did not receive fair consideration. Further he has drawn our attention to para 219 of the Indian Railway Establishment Manual, and, in particular, to classes (f), (g) and (j) of the said para.

"(f) The Selection Board will examine the service record and confidential reports (if kept) of the staff eligible. All the members of the Selection Board should independently assess the

candidates under different headings of personality, leadership etc., and record the marks awarded by them in the mark sheet given to them and the same should be signed and handed over to the Personnel Officer who should average the marks given by members of the Selection Board and be responsible to compile the results on the basis of marks given by the members of the Selection Board. This evaluation chart prepared by the Personnel Officer should thereafter be signed by all the members of the Selection Board. The members nominated on a Selection Board should be advised clearly that there should not be any cuttings and over-writings serious objection of any cuttings and over-writing will be taken."

E(NG) I-79/PM 1-320 dt. 23.12.79

"(g) Selection should be made primarily on the basis of overall merit, but for the guidance of Selection Board the factors to be taken into account and their relative weight are laid down below:-

E(NG) I-69/PM 1-126 dt. 18.9.69

		Maximum Marks	Qualifying Marks
(i)	Professional ability	50	30
(ii)	Personality, address, Leadership and academic qualification	20	--
(iii)	A record of service	15	--
(iv)	Seniority	15	--

Note(i) The item 'record of service' should also take into consideration the performances of the employee in essential Training Schools/Institutes-

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apart from the examining CRs and other relevant records."

E(NG) I-72/PM 1/92 dt. 27.6.73

(ii) Candidates must obtain a minimum of 30 marks in professional ability and 60% marks of the aggregate for being placed on the panel. Where both written and oral tests are held for adjudging the professional ability, the written test should not be of less than 35 marks and the candidates must secure 60% marks in written test for the purpose of being called in viva-voce test. This procedure is also applicable for filling up of general posts. Provided that 60% of the total of the marks prescribed for written examination and for seniority will also be the basis for calling candidates for viva-voce test instead of 60% of the marks for the written examination."

E(NG) I/72/PM-1/158 dt. 12.12.73 & E(NG) I/83/PM 1/65 dt. 5.12.1984.

"(j) The names of selected candidates should be arranged in order of seniority but those securing a total of more than 80% marks will be classed as outstanding and placed in the panel appropriately in order of their seniority allowing them to supersede not more than 50% of total field of eligibility."

E(NG) I/76 PM 1-142 dt. 25.7.79, 30.10.79

5. With a view to see whether the afore said provision were duly complied with in the matter of selection to which the applicant was subjected, we called for the relevant records. Mr. N.V. Ramana learned standing counsel

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 495/93.

Date of Order: 3-6-93.

Between:

Syed Chingeesha. ✓

.. Applicant. ✓

and

1. Divisional Railway Manager,
S.C.Railway, Vijayawada. ✓
S.C.Railway, Vijayawada. ✓
3. Senior Divisional Operations Manager,
S.C.Rly, Vijayawada. ✓
4. Sri P. Bangaru Shetty,
Head Trains Clerk,
Control Officer, S.C.Rly, Vijayawada. ✓
5. Sri M.V. Lakshmana Rao, Chief Trains Clerk,
S/o Station Superintendent, S.C.Rly,
Rajahmundry.
6. Sri S. Gangadhar, Head Trains Clerk,
Chief Yard Master's Office,
S.C.Rly, Vijayawada. ✓

.. Respondents.

For the Applicant: Mr. J. M. Naidu, Advocate.

For the Respondents: Mr. .. S.C. for Rlys.

CORAM:

THE HON'BLE MR. A. B. GORTHY : MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY : MEMBER (JUDL)

The Tribunal made the following Order:-

Heard Mr. J. M. Naidu, learned counsel for the applicant.

The grievance of the applicant is against his non selection for promotion to the post of Chief Trains Clerk in the pay scale of Rs. 1600-2660. It is the contention of the applicant that he qualified in the written test and was called for viva-voce also. Thereafter, the respondents have promoted Mr. P. Bangaru Shetty, a person junior to the applicant whereas the applicant was not promoted as per the office order dated 27-2-1993.

Admit. The respondents to file reply within 30 days.
Rejoinder if any, within two weeks thereafter.

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Copy to:-

1. Divisional Railway Manager, South Central Railway, Vijayawada.
2. Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
3. Senior Divisional Operations Manager, South Central Railway, Vijayawada.
4. One copy to Sri. J.M.Naidu, advocate, Advocates Association, High Court Building, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. EGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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for the respondents produced the records before us.

A perusal of the same would show that the applicant did not score even 50% of marks in the written test.

Nevertheless, he was called for viva-voce by giving him the benefit of marks for seniority. We find that the

applicant did not fair satisfactory during the viva-voce

and that his record of service is also comparatively

poor compared to others. The proceedings of the

selection board, even after a careful scrutiny, of the

same do not disclose any such violation of the relevant

provisions of the Indian Railway Establishment Manual

as would call for our interference.

6. The applicant was subjected to selection by duly constituted Selection Board. If he was not selected, it was because he did not score the required qualifying marks.

In any case, it is settled in law that the decision of a Selection

Board can rarely be interfered by the Tribunal. Nothing

has been brought to our notice as would justify ~~show that~~

~~there would be any justification to interfere~~ with the

decision of the Selection Board in this case.

7. In the result, we find no merit in the OA and the same is dismissed. No order as to costs.

(T. CHANDRASEKHARA REDDY)
MEMBER (JUDL.)

(A.B. GORTI)
MEMBER (ADMN.)

Dated : The 4th April 1994
(Dictated in Open Court)

By *[Signature]*
DY. Registrar/Judl.

spr

cm 12 -- 7/-

O.A. 495/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (AD)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 4/4/-1994

ORDER/JUDGMENT

M.A./R.A./C.A. No.

In

O.A. No.

495/93

T.A. No.

(w.p.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs

Central Administrative Tribunal
DESPATCH
29 APR 1994
BM
HYDERABAD BENCH.

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19/4/94