

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**HYDERABAD BENCH**

**RECORD SECTION INDEX SHEET**

O.A. No. 679 /1996

a) Applicant (S) P.W. Mathew

Versus

b) Respondent (S) Divl. Ry. manager, S&R Ry, Misatchapatnam.

Sl.No.	Description of Documents.	Page. No.
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	Order dated	30-7-96. 12-15.
	Counter Affidavit.	
	Reply Affidavit	
	Order dated	
	<u>Part. II</u>	
	Duplicate Order Sheet.	Do
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	" Material Papers	
	" Order dt.	
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	<u>Part-III</u>	
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8  
20/9/96

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

(1)

O.A. NO.

679 of 1996

P. W. Mathew

Applicant (s)

VERSUS

Div. Ry. Manager, Secy, Visakhapatnam

Respondent (s)

Date	Office Note	Orders
16.7.1996		<p>This case may be listed for admission after two weeks at the request of the learned Counsel for the applicant.</p> <p>8/16/96 1714/RP M(A)</p> <p>Dt. 30-7-1996</p> <p>The O.A. is rejected vide orders on separate sheets.</p> <p>G/10 MHRP M(A)</p> <p>J HMGC, J VC</p>

CENTRAL ADMINISTRATIVE TRIVUNAL  
HYDERABAD.

ORIGINAL APPLICATION 679 of 1996.

Shri P. W. Mathews Applicant(s)

V E R S U S

The Divisional Railway Manager,

SFRly, Visakhapatnam, Respondent(s)

The application has been submitted to the Tribunal by

Shri P. B. Vijayakumar Advocate/party-in-

person under section 19 of the Administrative Tribunal Act, 1985 and the same has been scrutinised with reference to the points mentioned in the check list in the light of the provisions in the Administrative Tribunal (procedure) Rule 1987.

The application is in order and may be listed for admission on 6.96

*6/6/96*  
SCRUTINY ASST.

*6/6/96*  
DEPUTY REGISTRAR (JULY)

Section Officer.

11. Have legible copies of the annexure duly attested been filed. Yes

12. Has the Index of documents been filed, and pagination done properly. Yes

13. Has the applicant exhausted all available remedies. Yes

14. Has the declaration as required by item No. 7 of form I been made. Yes

15. Have required number of envelops (file size) bearing full address of the respondents been filed. Yes

16. (a) Whether the relief sought for, arise out of single cause of action. —

(b) Whether any interim relief is prayed for. Yes

17. In case an MA for condonation of delay is filed is it supported by an affidavit of the applicant. —

18. Whether this case can be heard by single Bench. —

19. Any other point. —

20. Result of the scrutiny with intial of the scrutiny clerk. May be filed

Ca  
6/6/76.  
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

Dairy NO. 1737/96

Report in the Scrutiny of Application.

Presented by. Mr.: P. B. Vijayakumar. Date of Presentation. 5/6/96  
Applicant (s).... P. M. Matthews.....

Respondent(s).... The Divl. Ry. Manager, S.Rly, Wakhefatain  
Nature of grievance.... Selection.....

No of applicants..... 1 ..... No. of Respondents.. 3R

CLASSIFICATION

1. subject..... (NO. ) Department Recd. (NO. )

1. Is the application in the proper form, (three complete sets in paper books form in two compilations.	Yes
2. Whether name, description and address of all the parties been furnished in the cause title.	Yes
3. (a) Has the application been duly signed and verified.	Yes
(b) Have the copies been duly signed.	Yes
(c) Have sufficient number of copies of the application been filed.	Yes
4. Whether all the necessary parties are impleaded.	Yes
5. Whether English translation of documents in a language other than English or Hindi been filed.	Yes
6. Is the application on in time, (See Section 21)	Yes
7. Has the Vakalatnama/Memo of Appearance/authorisation been filed.	Yes
8. Is the application maintainability. (U/s 2, 14, 18, or U.R. 8 etc.)	Yes
9. Is the application accompanied IPO/DD, for Rs. 50/-	Yes
10. Has the impugned orders Original, duly attested legible copy been filed.	Yes

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

INDEX SHEET

O.A. NO.

679

of 1996

CAUSE TITLE

P. W. Matthews

VERSUS

D.R.M., S.E.Rly, Visakhapatnam

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1.	Original Application	1 to 5
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Reg:- To direct the Respondent to include the name of the applicant at appropriate place in the provisional select list for the post of permanent way registry.

original (2)

Bench Case बैच केस/BENCH CASE

Selection

Railways (C) रेलवे/RAILWAY

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT HYDERABAD

DA 679 OF 96

Between:-

P.W. Mathews ..Applicant.

And:-

Divisional Railway Manager, SE Railway  
Visakhapatnam. ..Respondent

Chronology of Events:

S.NO:	Date	Description	Page NO:
1.	29-09-89	applicant was promoted as adhoc PWM Gr.II	2
2.	06-09-91	Sent on Deputation to Konkan Rlys.	2
3.	01-06-92	Further promoted as Tem.PWM Gr.I	2
4.	20-04-96	Test was conducted	3
5.	21-04-96	Applicant was informed that he failed.	3
6.	19-04-96	Panel was published.	3

Hyderabad,  
Dt.04-06-96

*Prv.*  
Counsel for the Applicant.

Recd COPY

Minimil  
Sc for Rly  
5-6-96

APPENDIX-A  
FORM-I  
SEE RULE -IV  
OF ADMINISTRATIVE TRIBUNAL (P) RULES

TITLE OF THE CASE...OAND:.....

INDEX OF THE MATERIAL PAPERS FILED:

S.NO;	DATE	DESCRIPTION	ANNEXURE	PAGE NO;
1.	-	Application		1 to 5
2.	19-04-96	Impugned decision	A.I	6 & 7
3.	01-04-96	Lr. of respondent directing release of the applicant to attend to the test.	A.II	8

Re:  
Counsel for the Applicant

P. V. Halligan  
Signature of the Applicant.

For use in the Tribunal office;

Date of Filing :

NO of OA :

Registrar.

APPLICATION UNDER SEC.19 OF THE ADMINISTRATIVE TRIBUNAL ACT.85

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH:AT HYDERABAD

OA NO: OF 96

Between:-

P.W. Mathews, S/o Sri Varghese  
50 yrs., Permanent Way Mistry,  
D/O. Dy. Chief Engineer, Bhatkal  
Konkan Railways

.. Applicant

Through P.B.Vijay Kumar, Advocate, A-9, Vijaypratap  
Apartments, Atchutareddy Street, Vidyanagar, Hyd. 44

And:-

The Divisional Railway Manager,  
South Eastern Railway,  
Visakhapatnam

.. Respondent

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE IMPIUGNED ORDER:-

The applicant herein assails the Memorandum  
No.WPY/446/PWM dt.19.4.96 of the Respondent (A.I at P:6) ques-  
tioning the non inclusion of his name in the provisional select  
list for the post of Permanent Way Mistry in the scale of  
Rs.1400-2300 (RPS).

2. JURISDICTION OF THE TRIBUNAL:-

This Bench of this Central Administrative Tribunal  
alone has got jurisdiction under Section 14 of the Administrative  
Tribunal Act.1985 since the applicant is a permanent employee  
under the respondent and is on deputation to Konkan Railways.

3. LIMITATION:-

This application is well within the period of limita-  
tion prescribed under Section.21 of the Administrative Tribunal  
Act 1985, since the impugned decision is dated:19.4.1996.

**4. FACTS OF THE CASE:-**

The applicant herein submits that he joined in Marshalling Yard at Visakhapatnam in open line on regular basis. Later he was sent on deputation to Survey & Construction Department, Waltair in the year 1989 where he was promoted as Permanent Way Mistry on adhoc basis in the scale of Rs.950-1500/- with effect from 29.9.1989. Later on on 6.9.1991 he was sent on deputation to Konkan Railways and there he was promoted as Permanent Way Mistry on temporary basis in the scale of Rs.1400-2300/- (Sr. I) with effect from 1.6.1992. Since then he has been continuing there while maintaining his lien in his parent railways i.e. the Respondent.

The Respondent herein has conducted tests to the posts of regular PWM in the scale of Rs.1400-2300/-. While conducting the tests curiously the applicant was not required and his name was totally ignored by the Respondent. At that juncture, the applicant herein made a representation dated 25.3.1996, requesting the Respondent to enable him also to appear for the test. Since the test was conducted for all other candidates, the applicant herein was required to appear again for another test conducted only for him on 20.4.1996. Unlike other candidates the applicant herein was not notified the syllabus at any point of time and no sufficient time has been given for preparing the said examination even. Oral as well as written test was conducted and the marks have been divided equally. Both in the written as well as oral, many questions unconnected with the subject, while taking into consideration the syllabus prescribed for the previous candidates, have been asked. The Administration intentionally gave questions out of syllabus. If the syllabus prescribed for previous batches including the immediate batch and also the

(b)

questions given for them and the applicant are perused or examined, it would be noticed that the out of syllabus questions have been given in order to see that the applicant is victimised. On 21.4.1996 he was informed verbally that he failed in the said examination, both oral and written. The applicant submits that the manner in which the questions are given vis-a-vis the other candidates who have taken the examination earlier in point of time and also the syllabus the irresistible conclusion one can draw is that the Department wanted to victimise the applicant.

Originally the Administration has totally ignored his claim and when he complained seeking remedial justice, a test was conducted and the manner in which the said test was conducted and results are announced reflects that it is nothing but a mockery. Further prescription of 50% marks for the oral interview is arbitrary, illegal and contrary to the well said principles laid down by the Hon'ble Supreme Court. In view of the manner, the entire process of selection in so far as the elimination of the applicant is concerned, is arbitrary, illegal and as such it deserves intervention of this Hon'ble Tribunal.

#### **5.LEGAL PLEAS:-**

i) The process of selection prescribing 50 marks for viva is arbitrary, illegal and contrary to the well established principles laid down by the Hon'ble Supreme Court.

ii) Prescribing majority of questions out of syllabus and even without indicating the syllabus well before the examination and making the candidate failed is nothing but an act of mockery and the manner in which the selection was held reflects lawlessness.

(8)

promotion to the post of Permanent Way Mistry in the scale of Rs.1400-2300/- (RPS) with effect from such date he is found ineligible and with all consequential and attendant benefits including arrears of salary and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit necessary in the circumstances of the case.

**9. INTERIM RELIEF:**

Pending disposal of the main OA it is also just and necessary that this Hon'ble Tribunal may direct the Respondent herein either to differ implementation of the provisional select list communicated under Memo. No.WPY/446/PWM dt.19.4.1996 or get one post of Permanent Way Mistry in the scale of Rs.1400-2300/- (RPS) in abeyance and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit just and necessary in the circumstances of the case.

**10. Not applicable.**

**11. PARTICULARS OF THE POSTAL ORDER:-**

NO:-P 12 211502 DATE:- 5/6/96  
AMOUNT:- 50/- NAME OF THE POST OFFICE:- A.P.O. Secy D

1/2/96 A

**12. LIST OF ENCLOSURES:-**

Vakalat, Material Papers, Postal order, Covers, pad etc., **U.P.O. Secy D**

**VERIFICATION**

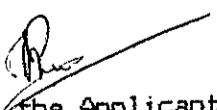
I, the above named applicant do hereby verify that the contents of the above paras are true and correct to the best of my knowledge and legal advise and I have not suppressed any material facts.

Hyderabad,

Dt.03-06-96

P. V. M. M. Ali

Signature of the Applicant

  
Counsel for the Applicant.

Memorandum

No. WPY/446/PWM.

Office of the Divl. Rly. Manager,  
Personnel Branch  
Waltair, dated 19-4-1996.

Sub: Select list for the post of P.W. Mistry  
in Scale Rs.1400-2300 (Rps.)

- - -

The following is the part provisional Select List  
approved by the Competent Authority on 18-4-1996 containing  
30(thirty) names for the post of P.W. Mistry in Scale  
1400-2300 (Rps.)

S/Shri.

1. D. Rama Rao	Adhoc PWM/JE/PW/CPP
2. L. Ramulu (SC)	Adhoc PWM -do-
3. A. Narayana Rao	Mate JE/PW/WAT.
4. G. Sanyasi Rao	Mate JE/PW/WZM
5. K.C. Subbarayudu	Mate -do-/CAE
6. B. Gopalam	-do- -do-/NWP
7. Ch. Saikonda	-do- -do-/KTV
8. D. Venkataswamy	-do- -do-/CHE
9. P.V. Ramana Raju	Adhoc PW1 Gr.II (C)/RGEA
10. K. Srirama Murthy	Keyman, /SUP
11. M. Pattabhi, Ramayya,	Adhoc PWI,II/RGLA
12. V. Tirumala Rao	Adhoc Jr.Clerk/PFU
13. T. Kameswara Rao	-do-
14. M. Suryanarayana	Adm Sr.TM/CHE
15. R.S.R. Patnaik	Sr. MP/ Gangman/CHE
16. T.B. Kripakar,	Sr.MP Gangman/ARK
17. R.Ch. Mouleswara Rao	-do-/ARK
18. P.V. Somasundaram	Adhoc Sr.Clerk(C)/RGLA
19. B. Satyanarayana	Sr. G.Man/ARK
20. D.V.S. Ramaraju	Adhoc PWM/APM (P)/VBL
21. J. Ramachandran	-do- RGLA
22. G.S. Kumar	-do- SPM(P)/RGDA
23. P. Pydithalli	TM.II/WAT.
24. D. Prabhakara Rao	Sr. MP. Gangman/ARK
25. T. Nageswara Rao	-do-/ARK 20/12/87 Sr. G.M.
26. Ch. Mahalaxmi	-do-/AUP
27. V. Pydithalli	-do-/KTV.
28. D. Mohana Rao	-do-/SUP

— 7 —

10

-121-

29. D. Vasudeva Rao Sr. Gangman/JDB  
30. B. Veeridemudu MP Gangman/MYD

NOTE:

1. The above is subject to D&A/SPE/Dept. clearance.
2. The position indicated above is likely to undergo any change, as and when the full select-list is published.

Sd/- - - - - - - - - - - - - -  
19/4/96.

Asst. Personnel Officer/Waltair.

dt. 19-4-1996.

Copy forwarded for information and necessary action to the:

Sr. DEN (Coord) /WAT, AENS-WAT MYD VZM CHE RGLA ARK KRPV JDB KRL  
CL (PW) WAT /MYD KTV VZM CDP CHE NWP PLH VBL PVP RGLA SUP ARK KRPV  
PFU JYP JDB DWZ BCNL-  
CE (PW) Con/RGLA, CPM/VSKP & CPM/RGDA, SPM/VSKP, SPM (D) /RGDA,  
SPM I (D), VSKP SPM.I/KGK APM (D) VBL, SPO (Con), /RGLA.

Sd/- - - - - - - - - -  
19/4/96

Sr. Divl. Personnel Officer/WAT.

// true copy //

SOUTH EASTERN RAILWAY

Office of the DRM (P)  
Waltair,

No. WPM/446

Dated: 01-04-1996.

To

The Chief Project Manager,  
Konkan Railway,  
Karnataka.

Reg: Filing up the vacancy of PWM/1400-2300

- - -

Sri P.V. Mathews, who is working as Adhoc PWM  
under C.E./Karwar in Konkan Railway may please be directed  
to attend this office on 22-4-1996 for supplementary written  
examination for the post of PWM/1400-2300 (Rps)

The above named is lien holder of this Railway.  
Please send the service sheet of the above named staff by  
Spl. Messenger.

This issues with the approval of DRM.

Sd/- - - - - - - - - -

1/4/96.

Divl. Rly. Manager (P)  
Waltair.

Encl: Nil.

Copy to Sr. DEN (Co) Waltair

// true copy //

*R...*  
(PBM.Jayaram)  
Carri of Applican

put to him were out of syllabus prescribed for the other candidates and no syllabus was supplied to him separately. The applicant however has not stated which questions according to him asked to him <sup>were</sup> ~~was~~ out of syllabus. No syllabus is also produced with the O.A. We cannot, therefore, take cognisance of grievance made in general terms.

3. Another grievance made is that the prescribing of 50 marks for viva voce is erroneous. There is absolutely no principle shown as to why it should be regarded as illegal. Whatever it is, the applicant did take a chance to appear at the test subject to the existing syllabus as well as the condition of 50 marks for viva voce. We therefore find no ground on which the application can be entertained. Hence, the O.A. is summarily rejected.

(H.Rajendra Prasad)  
Member (A)

M.G. Chaudhary  
( M.G. Chaudhary )  
Vice Chairman

Dt. 30-7-1996  
(Open court dictation)

kmv

5 Copies

8/19/96

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI  
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 30-7-1996

ORDER/JUDGMENT

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

in  
O.A.No. 595/96 679/96.

T.A.No. (W.P. )

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm

