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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

OA No.92/1994

Date of order: 02.03.1998

1. Sudir Bhargava S/o Dr. Radha Mohan Bhargava
2. Ved Ram S/o Shri Ghurey Lal
3. Atar Singh Verma S/o Shri Parroan Mal
4. Amar Lal Verma S/o Shri Bajrang Lal
5. Shyam Kumar Puri S/o late Shri Narendra Nath Puri
6. Q.Z.Khan S/o late Shri Mahmood Zama
7. Ashok Kumar Vashishatha S/o Shri Damodar Vashishatha

All are posted as Senior Goods Guard in the grade Rs. 1350-2200 in the office of Station Manager, Kota.

.. Applicants

Versus

1. The Union of India through the General Manager, Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Kota.
3. The Senior Divisional Operation Manager, Western Railway, Kota.
4. Shri R.B.Meena
5. Shri Manohar Lal Meena
6. Shri R.G.Gutam
7. Shri Vinod Kumar Sharma
8. Shri S.S.Sharma
9. Shri R.P.Sharaswat
10. Shri Narendra Kumar
11. Shri Brij Raj Singh
12. Shri P.K.Gupta
13. Shri R.K.Dixit

All respondents from S.Nos. 4 to 13 are at present

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working as Senior Goods Guard in the grade ^{Rs.}/1350-2200 in the office of Senior Divisional Operation Manager, Western Railway, Kota.

.. Respondents

Mr. Virendra Lodha, counsel for the applicants

Mr. Manish Phandari, counsel for respondents No.1 to 3

Mr. R.N.Mathur, counsel for respondents Nos. 12 and 13.

GORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. G.F.Sharma, Administrative Member

ORDER

Per Hon'ble Mr. G.F.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, S/Shri Sudhir Bhargava, Ved Ram, Atar Singh Verma, Amar Lal Verma, Shyam Kumar Furi, Q.S.Khan and Ashok Kumar Vashishatha have prayed that the panel dated 14.2.1994 (Ann.A1) for selection to the post of Passenger Guard may be quashed insofar as it includes the names of respondents Nos. 4 to 13 in the OA. They have further prayed that the official respondents may be directed to include the names of the applicants in the aforesaid panel above respondents Nos. 4 to 13 for the purpose of promotion to the post of Passenger Guard, scale Rs. 1350-2200, with all consequential benefits. There is ^a still further prayer by the applicants that the official respondents may be directed to maintain the original seniority of the applicants, which was maintained prior to issue of the impugned panel dated 14.2.1994 and the seniority of the applicants be maintained after including their names in the aforesaid panel. Finally, the applicants have prayed that if any orders detrimental to the rights of the applicants are passed during the pendency of the OA, the same may also be taken on record and be quashed.

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2. The case of the applicants is that in the selection for the post of Passenger Guard scale Rs. 1350-2200, names of respondents Nos. 4 to 13 S/Shri R.P.Meena, Manohar Lal Meena, R.G.Gautam, Vinod Kumar Sharma, S.S.Sharma, R.P.Saraswat, Narendra Kumar, Erij Raj Singh, R.K.Gupta and R.K.Dixit have been included whereas they are all junior to the applicants. The names of the applicants have not been included in the said panel although the applicants have outstanding and unblemished serviced records. Further, according to the applicants, S/Shri P.K.Gupta and R.K.Dixit two of the respondents had adverse remarks recorded in their confidential records and still they have been included in the selection panel. Yet another grievance of the applicants is that an officer of the rank of Junior Administrative Grade had to be associated with the selection process but no officer of this grade was actually associated with the selection. According to the applicants, they were working quite satisfactorily on the post of Passenger Guard on ad hoc basis and in view of the instructions contained in Ann.A6 dated. 1.3.1990 issued by the Railway Board, they should not have been excluded from the selection panel. They have accordingly prayed that their names should be included in the selection panel above the names of respondents Nos. 4 to 13 of the OA.

3. Reply to the OA has been filed by the official respondents as also by respondents Nos. 12 and 13 who are private respondents.

4. On 30-10-1996 the Tribunal had directed the official respondents to produce the service records of the applicants and the ACRs of S/Shri P.K.Gupta and R.K.Dixit, respondents Nos. 12 and 13 in the OA. The official respondents were also directed to produce the records relating to the selection on the basis of which the impugned

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panel was prepared. The records relating to the selection have been produced and the ACRs of S/Shri P.K.Gupta and R.K.Dixit have also been produced for our perusal today. These have been perused by us.

5. We have heard the learned counsel for applicants, the learned counsel for the official respondents as well as the learned counsel for respondents Nos. 12 and 13, namely S/Shri P.K.Gupta and R.K.Dixit.

6. It is true that respondents Nos. 4 to 13 are senior to the applicants in the lower post. However, the post of Passenger Guard is to be filled up on the basis of selection of which interview for judging professional ability is one component and examination of service records is another component. A perusal of the proceedings for selection shows that none of the applicants secured 60% marks in the aggregate, including 60% marks in professional ability, in order to qualify for being included in the selection panel. Insofar the allegation that there were adverse remarks in the ACRs of respondents Nos. 12 and 13, the position that has emerged on examination of their confidential records is that the adverse remarks recorded in the case of Shri R.K.Dixit (respondent No.13) for the year ending 31.12.1992 have been expunged on a representation made by him. Insofar as Shri P.K.Gupta (respondent No.12) is concerned, it was communicated to him for the year ending 31.12.1993 that he does not take down the safety circulars regularly. It was clarified by the learned counsel for the official respondents during the hearing that these remarks are advisory in nature and overall grading of this official is average. It is only where the grading is below average that the ACR can be treated as adverse. In these circumstances, we are of the view that neither of these two respondents can be treated as having subsisting adverse remarks in their

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ACRs. Insofar as allegations that no Junior Administrative Grade officer was associated with the process of selection, our perusal of the selection proceedings shows that one of the officers associated with the selection process was of the rank of DCM and another was DSO, both of whom apparently are in Junior Administrative Grade. The applicants have relied upon Ann.A6 dated 1.3.1990 being a circular issued by the Railway Board to the effect that officers who are working satisfactorily should not be failed in the interview. The position that has emerged is that the post of Passenger Guard is a safety category post and is to be filled up on the basis of selection. Insofar as filling up of safety category posts are concerned, there can be no relaxation in the matter of selection therefor. Therefore, if the applicants have failed in the selection process by not securing the minimum marks prescribed for the aggregate as well as those for professional ability, it cannot be held that they should be allowed to continue on the post merely because they had been working on the said post on ad hoc basis.

7. Overall, we find no merit in this application. It is, therefore, dismissed. No order as to costs.

(O.P.Sharma)

Administrative Member

(Gopal Krishna)

Vice Chairman