

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

DATE OF ORDER: 24/5/2001

OA 472/95

1. O.P. Meena son of Shri Bheek Singh Meena aged around 35 years resident of L&M, 82/C, Sikar. Presently posted as Senior Commercial Inspector, Western Railway, Sikar (Rajasthan).
2. Sanjeev Kumar meena son of Shri Bheek Singhji aged around 31 years resident of Basai Road, Mumbai. Presently posted as Marketing Inspector, Western Railway, Churchgate, Mumbai.

.....Applicants.

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Jaipur.

..... Respondents.

None present for the applicant.

Mr. T.P. Sharma, Counsel for the respondents.

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Hon'ble MR. S.K. AGARWAL, MEMBER (JUDICIAL)

HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

ORDER


PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)



The prayer of the applicants in this OA is that the respondents be directed to modify the panel dated 2.6.95 (Annexure A1) and to fill in all sanctioned posts of CMI grade Rs. 2000-3200 and that the names of the applicants may be included in the panel.

2. The selection for filling up six posts of CMIs was held in response to an notification dated 16.2.95. The applicants alongwith others were called for the same. Applicants' case is that though they were senior to S/Shri. K.L. Sain and Randheer Singh Chaudhary, they have been shown as juniors. They have further grievances, as no posts has been reserved for ST though as per 100 Point roster, one post should have fallen their share. The applicants belong to ST community and they claim to have right to be empanelled against ST vacancy by giving them the benefit of reservation. In the provisional panel issued on 2.6.95 only three persons have been empanelled and the applicants have been left out. Their contention is that they have been left out because of the wrong seniority position assigned to them and also because relaxation in standard not considered in their favour which should have been done for filling up the reserved post of ST.

3. The respondents have raised preliminary objection against the application on the ground that the applicants have not exhausted the departmental remedy by filing representation before the appropriate authority and thus have not complied with provisions of Section 20 of the Administrative Tribunal's Act, 1985. They contend that the panel dated 2.6.95 was provisional and applicants could have represented against the same and their coming before the Tribunal was premature. We do not see any force in this argument as this panel was provisional because of reasons mentioned therein i.e. on account of the case of J.C. Malik pending before the Hon'ble Supreme Court for final disposal. No departmental rules have also been shown providing for any remedy of appeal against any provisional panel of selection. No representations even have been invited by the Department on the ground. We reject the preliminary objection taken by the respondents.




4. On facts, the respondents have stated that the post of CMI, scale Rs. 2000-3200, is a selection post as per Para 215 of IREM. Three times of the number of vacancies are required to be considered. In this case 18 employees were required to be called but in the entire feeder cadre only five candidates were available and all of them were called. As a result of the selection held through process of interview, only three candidates were found suitable and were placed on the panel. Both the applicants had availed of this opportunity, but they could not qualify. In respect of reserving a post for ST, respondents plea is that in the cadre of six as per rules, no post is reserved for ST and one post is reserved for SC. As per 7½% reservation, no vacancy comes to the share of ST community. In that view the respondents claimed that there is no infringement of the rules and the applicants cannot claim benefit against any reserved vacancy. They have been considered as General Candidates and not as ST candidates. The respondents have stated that full opportunity has been given to the applicants but they could not qualify the selection.

5. It appears that applicants have been holding the post on ad hoc basis but the respondents claimed that this does not give any benefit to the applicants as they have not passed the selection as prescribed under the rules.

6. On the date of hearing, there was none present for applicant. The learned counsel for the respondents only reiterated the points made by the respondents in the written averments.

7. We have perused the facts carefully and heard the learned counsel for the respondents.

8. The learned counsel for the applicant was allowed one week's time to file written submissions, if any, till the date of writing of this order, no written submissions were received from the applicants' side. The facts as established are that there is a cadre of six CMIs in the grade Rs. 2000 3200. As per prescribed percentage no share comes to the ST community. Even L Time Roster for cadres upto 13, as issued by Department of Personnel and Training



in 1997 does not provide for any reserved post in favour of ST community in a cadre of six. In this view, we accept the stand of the respondents that in this selection there was no post reserved for ST. We do not find any infirmity in the selection process. The applicants had full opportunity and they did participate in the selection. They were considered as General candidates. They could not qualify the selection and obviously they cannot, thus, claim to be placed on the panel. In fact, the panel is three short of the vacancies. There would naturally have been no difficulty in placing the applicants on the panel had they succeeded in this selection. In this background the question of claiming selection on the ground of seniority becomes irrelevant and we do not propose to go in that aspect of the matter. There is no merit in this application and the same is liable to be dismissed.

9. We, therefore, dismiss this OA as devoid of any merit. No order as to costs.


(A.P. NAGRATH)

MEMBER (A)


(S.K. AGARWAL)

MEMBER (J)

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