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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH:
J A I P U R.

O.A. No. 96/1996

Date of order: 25.9.1997.

Malkhan son of Shri Ram Sahay, R/o Sailabas
Khurd, Sikandra Road, Near Forest Department,
Post Bandikui, Distt. Dausa, Presently posted
as Engine Road Attendant Fitter Gr. I, Western
Railway, Bandikui.

: Applicant

Versus

1. Union of India through General Manager,
Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Western
Railway, Jaipur Division, Jaipur.
3. Divisional Electrical Engineer,
Western Railway, Jaipur Division,
Jaipur.

: Respondents

Mr. R.N. Mathur, counsel for the applicant
Mr. S.S. Hasan, counsel for the respondents

CORAM:

HON'BLE MR.O.P.SHARMA, MEMBER ADMINISTRATIVE
HON'BLE MR. RATAN PRAKASH, MEMBER JUDICIAL

ORDER
(PER HON'BLE SHRI O.P.SHARMA, MEMBER ADMINISTRATIVE)

In this application under Section 19 of the
Administrative Tribunals Act, 1985, Shri Malkhan has
prayed that the respondents may be directed to include
the name of the applicant in the Panel of successful
candidates at Annexure A-1 dated 28.9.1995 for appointment
on the post of Apprentice Chargeman and that they may be
further directed to consider his name for appointment on
the said post on the basis of his service record only,
for the reason that the post of Chargeman Gr.'B' for which
Apprentices are appointed is a Non-selection post and
is to be filled up only on the basis of suitability
test. He has further prayed that the communication

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dated 27.11.1995 rejecting the applicant's representation may be quashed. Lastly, he has prayed that all consequential benefits may be granted to him.

2. The applicant's case is that the notification Annexure A-4 dated 20.10.1994 was issued for filling up two posts of Electrical Charge man. The applicant qualified in the written test vide Annexure A-5 dated 22.3.1995. He was called for interview vide Annexure A-6 dated 23.8.1995. However, thereafter name of only one candidate namely Shri Sunil Kumar has been included in the Panel of successful candidates, at Annexure A-1 dated 28.9.1995. The applicant submitted a representation against exclusion of his name from the Panel, but his representation has been rejected vide Annexure A-2 dated 27.11.1995. The case of the applicant is that it is a Non Selection post and, therefore, appointment to it should have been made on the basis of scrutiny of service record etc., only. Further one of the two posts was for a general candidate and the other one was for a S.T. candidate. Applicant belongs to S.C. category. However, under the rule of exchange to which a reference has been made in Annexure A-7 at pages 24 and 25, the applicant is entitled to be posted against the vacancy reserved for a S.T. candidate if no suitable S.T. candidate is available. Therefore, the applicant is entitled to be appointed on the said post on the basis of rule of exchange.

3. The respondents in the reply have stated that the post in question is a selection post. The applicant did not qualify in the interview and, therefore, he was not successful in the selection as such. There is no rule prescribing relaxed standard for selection to be adopted in the case of SC/ST candidate. Since the applicant had failed in the selection, he could not be

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empanelled and given appointment on the post and there was, therefore, no question of application of rule of exchange.

4. During the arguments, the learned counsel for the applicant stated that the applicant being a SC candidate was entitled to be adjudged during the selection on the basis of relaxed standard and the respondents were, therefore, not justified in declaring the applicant as not selected and hence not empanelled. Once the applicant is treated as a selected candidate he is entitled to be appointed against one of the two vacancies on the basis of the rule of exchange as referred to in Annexure A-7. The learned counsel for the respondents stated during his oral arguments that there is no rule prescribing relaxed standard for selection in favour of SC/ST candidate. Since the applicant had appeared in the selection and did not qualify the selection, he is not entitled to be appointed on the basis of rule of exchange either.

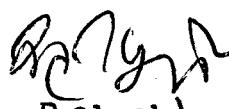
5. We have heard the learned counsel for the parties and have perused the material on record.

6. The respondents in the reply have categorically stated that this is a Selection post and that the applicant has failed in the selection. Since the applicant has not qualified the selection, he was not empanelled. Once he has not ^{been} declared as a selected candidate, there is no question of his being appointed even on the basis of rule of exchange against a post

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meant for ST candidate. In these circumstances, we find no merit in this application. It is dismissed at the stage of admission with the consent of the parties. No order as to costs.


(Ratan Prakash)
Member Judicial


(O.P. Sharma)
Member Administrative