

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

O.A. No. 275/1997

Date of decision 23.4.2002

Kishore Kumar Shukla S/o Shri Shyam Sunder Shukla,
aged 36 years, at present working as Senior Khalasi,
in the office of Chief Signal Inspector, Shyam Garh,
Kota Division, R/o 343/EL, Unit 'B', Shyam Garh Railway
Colony, Kota.

...APPLICANT

V E R S U S

1. The Union of India through
the General Manager,
Western Railway, Church Gate,
Mumbai.
2. The Divisional Rail Manager,
Western Railway,
Kota (Rajasthan).
3. The Senior D.S.T.Es. (Estt.),
Western Railway,
Kota (Rajasthan).

...RESPONDENTS

Mr. P.V. Calla, counsel for the applicant.

Mr. Hemant Gupta, brief holder for

Mr. M. Rafiq, counsel for the respondents.

C O R A M :

HON'BLE MR. A.P. NAGRAH, ADMINISTRATIVE MEMBER.

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.

O R D E R

(Per Hon'ble Mr. J.K. Kaushik, Judl. Member)

The applicant Shri Kishore Kumar Shukla has filed

this Original Application under Section 19 of the Administrative Tribunals Act, 1985 praying thereunder for calling and examining the entire record relating to the selection and for seeking a further direction to insert the name of the applicant in the panel at appropriate place.

2. The brief facts of the case are that the applicant was initially entered in the Railway Service on 21.1.1980 as Casual Labour in Signal Department. In due course, he enjoyed his promotion and became Senior Khalasi in the pay scale of Rs 800-1150 on 16.5.1990. The respondent department issued a seniority list of Group 'D' employees working in Signal Department on 15.2.1996. A selection was organised from Group 'D' post, ^{all} employees eligible to be considered for group 'C' post against 25% ranker quota to the post of ESM grade-III, ^{viva voce!} vide notification dated 13.11.1995 the total post of 22, out of which one reserved for Scheduled Tribes. The applicant was found eligible and was subjected to a written test which he qualified vide their letter dated 12.6.1996 (Annex. A/4) and his name placed at Sl. No. 20 in the result of written test. The names were arranged in order of merit. In all 60 Group 'D' employees were declared passed and were ~~were~~ held qualified ^{test} for interview. The viva-voce test was held on 5.7.1996. The applicant also appeared before the selection board and the selection board was constituted of 3 members i.e. D.S.Ts., Kota, D.S.T. Telecom and Senior D.P.O., Kota. It has also been averred that as per the rules one ^{in the Selection Board} person should be from a department other than one for which the selection is being made. In the present case, there was no Officer from the other department as per the mandate of the relevant rule.

3. The applicant also passed the requisite departmental promotion course ~~and~~ meant for the post of E.S.M. which is conducted at the zonal level at Signal Training Centre Sabarmati and a certificate to this effect was issued vide order dated 14.09.1993 (Annexure A/6). It has been further averred that the applicant has replied all the questions correctly in the interview and in the interview separate marks for qualification, service records and seniority have been provided. He has also passed Higher Secondary Examination. However, he has not been empanelled and his number of juniors have been empanelled. It has also been asserted that even the persons working in the lower scale of Rs 750-940 (RP) have also been taken on panel. The persons who had no experience on the post of E.S.M. grade III have been placed on the panel. The panel was finalised vide letter dated 26.7.1996. On the other hand, the applicant who has passed the requisite training course and has the practical ~~and~~ experience has not been placed on the panel. Being aggrieved from his non-selection, he submitted detailed representation to the competent authority dated 24.9.1996 (Annexure A/2), but there was no response.

4. The O.A. has been filed on the grounds that the selection committee was not constituted properly inasmuch as one of the member of the Selection Committee should be from a department other than one for which the selection is being made and in the present case there was no person from the other department. Nextly, the applicant has passed the requisite training, he was one of the very senior person. He has got the unblamish service record. He replied of the questions asked him in the viva-voce but still he has been discriminated and

the panel prepared deserves to be quashed. Thirdly, he submitted a representation to the competent authority but the same was turned down without passing a speaking order and none of the points raised by him in the representation were considered. Lastly, it has been averred ~~if~~ that if the service records of the applicant are called then it will be revealed that the selection committee would have recommended the name of the applicant for selection and the O.A. of the applicant deserves to be allowed.

5. The show-cause notices were issued of admission by this Tribunal on 17.7.1997 and the respondents were directed to file the reply to the O.A.. The respondents have filed a detailed reply to the O.A. and have controverted the facts and grounds raised in the O.A. It has been asserted that the post of E.S.M. grade III is a selection post and persons from different seniority unit of class-IV were being considered and as such the seniority have no role to play and the criteria was merit based. In the selection, persons ~~holding the post~~ holding the post in the pay scale of Rs 800-1150 as well as Rs 750-940 and holding the post of Senior Khalasi/Khalasi were eligible, as per the relevant avenue of promotion against 25% ranker quota. Further it has been said that the selection has been conducted as per the rules in force. The selection board was also constituted as per the rules and it has been said that one of the Officer was from Personnel Branch i.e. D.P.O (not Senior D.P.O) and another was from Signal Department i.e. D.S.T.E. and third member was from Telecom Department i.e. D.S.T.E. Thus, the selection board was constituted as per the rules. The applicant was not found suitable as per his performance in viva-voce test by the selection committee and that is the reason his name has

not been included in the panel and there has been no illegality in the selection whatsoever. The applicant has no case. The O.A. deserves to be dismissed.

6. We have heard the learned counsel for the parties and have carefully perused the records of this case.

7. The respondents have also produced the records relating to the selection proceedings held for the post of E.S.M.-III in question. The learned counsel for the applicant has stressed the first ground of attack that the selection board was not constituted as per the rules inasmuch as the one of the member ought to have been from the other department other than the one for which the selection is being made. It is observed that as per the prayer made in the O.A. no relief has been prayed as regards the quashing or setting aside of the very selection held for the post of E.S.M. III. In any case, if the point relating to the quashing of the selection is considered and found tenable, the main prayer of the applicant that his name should be inserted in the panel will have to be given goodbye. However, we find that the version given by the respondents that one D.S.T.E. belongs to Signal and D.S.T.E. belong to telecom is not acceptable. Since these are not separate department and there is only one department known as Signal and Telecommunication Department and both the D.S.T.E. known as Divisional Signal and Telecommunication Engineer very much belong to the said department i.e. of Signal Telecommunication. As per the general rule one of the member sets the examination papers and other one the examination copy. In the present case there was DPD who definitely belongs to a department other than the


one for which the selection was made. Thus, there is
no infirmity as ^{as} far/the selection to the post of E.S.M.

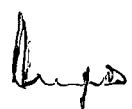
grade III is concerned. Railway Board's Circular No. E(NG)
I-95/PM/1/14 dated 2.3.98 confirms this position.

8. The next contention of the learned counsel for the applicant is that he was one of the senior person and have good service record and he ought to have been placed on the panel since he was very meritorious and inasmuch as the name was finding placed at Sl. No. 18 of the written test which was prepared as per merit and performance in the said test. He also did well in the viva voce test. On the other hand the learned counsel for the respondents have produced the relevant record and have asserted that the selection was based on the written test and the viva voce test. Since there were number of categories involved as feeder category in the selection in question. No other marks were allotted as per the rules in force. The applicant has been awarded the marks as per his performance in the written test as well as in the viva voce test. Further, it has been averred that there is no allegation of mala fide against any individual.

9. We have perused the record and as per the record the applicant secured 43.3 marks in written test and 4 marks in viva voce test which comes to total of 47.3% ~~marks~~ whereas the minimum passing marks are 60%. Thus, the applicant has not qualified in the selection. Thus, the applicant has no case and the D.A. deserves to be dismissed.

10. In view of the aforesaid discussions, we find that there is no merit in this D.A. and the same is hereby ~~to be~~ dismissed. No order as to costs.


(J.K. KAUSHIK)
Judl. Member


(A.P. NAGRATH)
Adm. Member