

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 18.04.2001

OA 102/2000

Jitendra Kumar Nagar, Junior Teacher (TGT), Railly Senior Secondary School, Western Railway, Gangapur.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Shri Ranveer Singh, Junior Teacher, Railway Senior Secondary School, Ratlam.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.S.K.Jain

For the Respondents ... Mr.U.D.Sharma

O R D E R

PER HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant seeks quashing of the impugned order dated 16.2.2000 (Ann.A/1), by which a panel has been issued for promotion to the post of PGT (English) scale Rs.6500-10500 and the name of respondent No.2, Shri Ranveer Singh, has been shown in the panel.

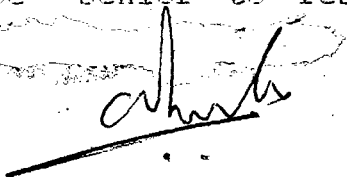
2. We have heard the learned counsel for the parties and have perused all the material on record.

3. The learned counsel for the applicant has challenged the promotion of respondent No.2 essentially on the ground that as per notification dated 14.12.99 (Ann.A/2) the said post of Senior Teacher (PGT) scale Rs.6500-10500 was not reserved for SC/ST candidate and was supposed to be filled up by a general category candidate. It is also argued by him that although respondent No.2 undisputedly belongs to SC community, the official respondents had not shown him as such either in the eligibility list dated 6.1.2000 (Ann.A/3) or in the impugned panel (Ann.A/1) and thus has

alleged that the official respondents wanted to provide undeserve promotion to respondent No.2.

4. In their reply the official respondents have contended that even though the post was not reserved for SC/ST candidate, nothing prevents a SC/ST candidate who is in the eligibility list and, therefore, within zone of consideration, to participate in the selection process and if he is senior enough and is also found meritorious enough in the selection process, there is nothing in law which could prevent him from being promoted. It has also been contended on behalf of the official respondents that respondent No.1 was senior to the applicant in the base grade and this fact was reflected in the eligibility list (Ann.A/3), where respondent No.2 is placed at S.No.1 and the applicant is placed at S.No.3 and if the applicant considers himself senior to respondent No.2, his grievance would have arisen on that date itself i.e. on 6.1.2000 but he made no objection and, therefore, after not passing the selection test, he is estopped from raising any question about his being senior in the base grade. The official respondents have also specifically contended that the post of Senior Teacher is a selection post and the suitability for the said post was adjudged by the Selection Board through viva-voce but the applicant failed to secure a minimum qualifying marks in the selection process and having failed in the selection process has now come up with an unfounded case to challenge the promotion of a senior and selected person.

5. We have carefully considered the rival contentions. It is contended by the official respondents that respondent No.2 was senior to the applicant in the base grade of Teacher. The applicant himself has not annexed any seniority list and, therefore, there is no reason for us not to accept the fact that respondent No.2 was senior to the applicant in the base grade. The law is also very clear that a reserved category candidate, if he finds a place in the eligibility list by virtue of his seniority and appears in the selection process and comes into merit, he can be promoted. ^{against an unreserved post also.} Even if the applicant, in the instant case, was to be senior to respondent No.2, the catch-up rule as



enunciated by Hon'ble

/the Supreme Court in Ajit Singh-II, reported at AIR 1999 SC 3471, and clarified in the case of Jatinder Pal Singh, reported at 1999 SCC (L&S) 1280, will come into play only when the general category candidate catches up with his junior reserved category candidate at the next higher level. In the present case, the applicant is junior to respondent No.2 in the base grade. The respondent No.2 was senior and was actually placed at S.No.1 in the eligibility list. He was, therefore, entitled to appear in the selection test and consequently also passed the selection test. On the other hand, the applicant failed to secure the minimum qualifying marks in the selection test. In the circumstances, the applicant has absolutely no case. He was neither senior to respondent No.2 in the base grade nor he could pass the selection test. In the circumstances, we are not required to make further inquiries as to whether the roster in the cadre of Senior Teacher was completed and whether the judgement of Hon'ble the Supreme Court in the case of R.K. Sabharwal and Others v. State of Punjab and Others, reported at 1995 SCC (L&S) 548, can come to the help of the applicant.

6. In view of the above discussion, we find no merit in this case and it is accordingly dismissed with no order as to costs. The interim direction issued by this Tribunal on 8.3.2000 also stands vacated.


(N.P. NAWANI)

MEMBER (A)


(S.K. AGARWAL)

MEMBER (J)