

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.191/2000

Date of order: 20.11.2002

Chander Shekhar Sharma, S/o Sh.Ishwar Chand Sharma, Senior Pointsman, R/o Rly.Quarter No.7/85, Opp.Shiv Mandir, Chang Chit Road, Beawar, Distt.Ajmer.

...Applicant.

Vs.

1. Union of India through its General Manager, Western Rly, Churchgate, Bombay.
2. Divisional Railway Manager, Western Rly, Ajmer Division, Ajmer (Estd.).

...Respondents.

Mr.Subhash Basawa - Counsel for applicant.

None appeared for respondents.

CORAM:

Hon'ble Mr.G.C.Srivastava, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER.

ORDER(ORAL)

Senior Operating Manager, Western Railway, Ajmer, vide notification dated 27.7.98, invited applications from Group-D regular employees for promotion to the post of Group-C, viz Commercial Clerks, in the scale Rs.3200-4900, Ticket Collectors & Train Clerks, in the scale Rs.3050-4590 by selection against rankers quota. In the said notification the eligibility condition for the posts was prescribed as that the employees working in the scale Rs.3050 and below are eligible for consideration. This was followed by corrigendum dated 8.3.99 whereby it was provided that the employees of Group-D are eligible for appearing in selection for the post advertised vide notification dated 27.7.98 and the employees who are

working in the scale Rs.3050-4950 are not eligible for the selection. The applicant who was working as Pointsman in the scale Rs.3050-4950 has also applied pursuant to the said notification. He was called for departmental examination in which he <sup>was</sup> declared as passed vide notification dated 3/7.2.2000. The case of the applicant is that despite qualifying the written examination, he was not called for viva voce test. He also made a representation dated 28.3.2000 (Annx.A2) which was finally rejected vide order dated 5.4.2000 (Annx.A4). It is on the basis of these facts the applicant filed this O.A whereby praying for declaring Annx.A4 dated 5.4.2000 as illegal with further direction to the respondents to enter his name at Sl.No.64 in the notification dated 4.4.2000 (Annx.A3). The main grounds of challenge made by the applicant are that-

(i) the orders dated 4.4.2000 and 5.4.2000 are illegal, discriminatory and malafide as the applicant has been deprived of an opportunity of appearing in the interview once the applicant has been declared <sup>pass/successful in</sup> in the written test;

(ii) as per Annx.A3, there are clear vacancy in the pay scale Rs.3200-4900 and the applicant applied for the said post as he is regularly working as Sr.Pointsman in the scale Rs.3050-4590 therefore he has a right to go ahead from lower grade to higher grade; and

(iii) the applicant belongs to Group-D category and there is no bar in the rule that a person who is working in Group-D, in the scale Rs.3050-4590, cannot apply for the post in Group-C, scale Rs.3200-4900.

2. The respondents have contested the case by filing reply affidavit. Their main case is that for selection against ranker quota of 33 1/3%, only Group-D employees are eligible for appearing in the selection for the posts mentioned in the

notification dated 27.7.98 as per paras 126, 127 & 128 of IREM and also as per Railway Board letter dated 30.10.87. Since, the applicant at the relevant time was working as Sr.Pointsman in the scale Rs.3050-4590 and belongs to Group-C category, as such, he is not eligible for appearing in terms of the aforesaid provisions. The notification dated 27.7.98 which prescribes the eligibility criteria thereby making person working in the scale Rs.3050-4590 <sup>also eligible for</sup> ~~have~~ subsequently been modified by issuing corrigendum dated 8.3.99 thereby it has been specifically stated that only Group-D employees will be eligible for selection to the aforesaid post under ranker quota of 33 1/3%. Name of the applicant was wrongly included in the eligibility list dated 6/23.3.99 and on the basis of the said eligibility he was allowed to appear in the written examination and result of which was declared vide order dated 3/7.2.2000. When this mistake came to the knowledge of the respondents, name of the applicant was deleted from all selection proceedings vide order dated 5.4.2000 and he was rightly not allowed to appear in the viva voce test.

3. We have heard the counsel for the applicant and gone through the material placed on record.

4. The sole question which requires our consideration is whether the applicant who admittedly belongs to Group-C category in the pay scale Rs.3050-4590 was eligible for selection to the post of Commercial Clerk, pay scale Rs.3200-4900, Ticket Collectors/Train Clerks, pay scale Rs.3050-4590 simply on the basis of wrong notification which was subsequently modified vide corrigendum dated 8.3.99.

5. It is not disputed that as per notification dated 27.7.98 16 posts of Commercial Clerk in the pay scale Rs.3200-4900, 10 posts of Ticket Collector and 3 posts of Train Clerk in the pay

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scale Rs.3050-4590 were required to be filled in from ranker quota on the basis of written examination as well as viva voce and one of the eligibility criteria for applying against these posts was 'employees working in the pay scale Rs.3050-4590 and below were made eligible. Subsequently vide corrigendum dated 8.3.99, this eligibility criteria was modified and it was provided that the employees of Group-D are eligible for appearing in the selection for the aforesaid posts and employees who are working in the scale Rs.3050-4590 are not eligible. It is also not disputed that Group-C employees including the applicant were placed in the eligibility list dated 6/23.3.99 and on the basis of the eligibility list the applicant was allowed to appear in the written examination and he was eventually declared as passed in the written examination vide order dated 3/7.2.2000 and his name find mentioned at Sl.No.64. However, name of the applicant was deleted from selection proceedings vide orders dated 4.4.2000 and 5.4.2000 after issuing show cause notice dated 23.3.2000 and after considering his representation dated 28.3.2000. It is also not disputed that the applicant is working as Sr.Pointsman in the pay scale Rs.3050-4590. The respondents have also placed on record the Railway Board letter dated 30.10.87 which shows that all posts in scale Rs.750-940, (2550-3200), Rs.775-1025 (2610-3540) and Rs.800-1150 (2650-4000) are classified as Group-D posts. Thus, as per classification of the posts, the applicant belongs to Group-C category. Now, the next question which requires our consideration is whether the applicant who belongs to Group-C category are eligible for appearing in the said selection test, more particularly to the post of Commercial Clerk in the pay scale of Rs.3200-4900 simply on the ground that he was in the lower grade of Rs.3050-4590, though both these posts belong to Group-C category. According to us the



answer to this question is in negative. Selection to the post of Commercial Clerks is to be made from the following sources as is apparent from para 128 of the IREM, the relevant portion of which reads as under:

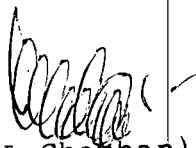
"128.(1) The vacancies in the category of Commercial Clerks in scale Rs.975-1540 will be filled as under:

(i) 66-2/3% by direct recruitment through the Railway Recruitment Boards; and

(ii) 33-1/3% by promotion by a process of selection from eligible Group-D categories as specified by Zonal Railway administrations."

From the portion quoted above, it is quite evident that against 33-1/3% of quota meant for promotion, only Group-D employees have been made eligible for such promotion by way of process of selection. The respondents have also placed on record copy of Railways decision dated 18.8.87 (Annx.R4) which clarifies that Sr.Pointsman who are now in Class-III in the scale of Rs.950-1500 (3050-4590) are not eligible to appear for selection against 33-1/3% meant for Group-D employees in the category of TC/TNC/ACC. Thus, in view of the aforesaid provision and clarification issued by the Railway Board, we are of the considered view that the applicant was not eligible for appointment to the post advertised vide notification dated 27.7.98, as such he could not <sup>have</sup> ~~be~~ appeared in the selection test. Thus, according to us, the action of the respondents authorities in issuing the corrigendum dated 8.3.99 is in conformity with paras 126, 127 and 128 of the IREM and also ~~in view of~~ the decision of Railway Board dated 30.1.87 and thus they have not committed any illegality in not calling the applicant for viva voce test when subsequently it was found that he was wrongly allowed to appear in the written test to

which he was not eligible. Thus, according to us, the action of the respondents in passing the order dated 5.4.2000 (Annx.A4) and order dated 4.4.2000 (Annx.A3) are in conformity with rules and the decision of the Railways as quoted above. Accordingly, the O.A is dismissed with no order as to costs.

  
(M.L. Chauhan)

Member (J)

  
(G.C. Srivastava)

Member (A).