

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 14.05.2001

OA No.206/2000

Pradeep Kumar Saxena s/o Shri Sri Ram Mchanlal Saxena, C.P.W.I  
(North), Kota Division, Kota r/o 908/A, New Railway Colony, Kota.

.. Applicant

Versus

Union of India through General Manager, Western Railway, Churchgate,  
Mumbai.

.. Respondent

Mr. Nand Kishore/Mr.Shiv Kumar, counsel for the applicant

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

OA No.212/2000

Rakesh Jain s/o Shri Trilokchand Jain, CPWI, Phulera (Jaipur  
District), L/77, Railway Colony Phulera (Raj).

.. Applicant

Versus

The Union of India through the General Manager, Western Railway,  
Churchgate, Mumbai - 20.

.. Respondent

Mr. Nand Kishore/Mr.Shiv Kumar, counsel for the applicant

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

OA No.213/2000

Hari Om Govil s/o Shri P.L.Govil CPWI, r/o E/121/A, Railway Colony,  
Jaipur, working as CPWI, Western Railway, Jaipur.

.. Applicant

Versus

The Union of India through the General Manager, Western Railway,  
Churchgate, Mumbai.

.. Respondent



Mr. Nand Kishore/Mr. Shiv Kumar, counsel for the applicant.

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

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

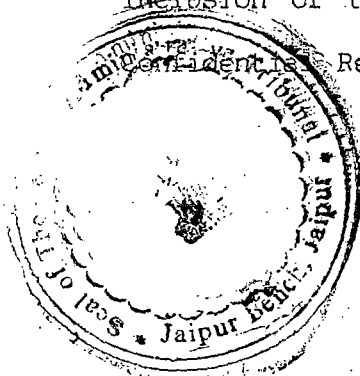
PER HON'BLE MR. N.P.NAWANI, ADMINISTRATIVE MEMBER

The above mentioned three OAs are being disposed of by this common order in view of the same issues of law and facts involved and the applicants being aggrieved by non-inclusion of their names in the panel for promotion to Group 'B' post of A.En. declared vide order dated 31.3.2001 (Ann.A1).

2. We have heard the learned counsel for the parties and have also gone through all the material on record as also the rule position.

3. The applicants who belonged to Group 'C' staff of the Civil Engineering Department of the respondents had appeared in the written examination for selection to Group 'B' post of Assistant Engineer (for short, A.En. regular 70%) and on being declared successful in the said examination vide Ann.A3 were called for viva voce. Their names, however, did not figure in the panel declared vide Ann.A1. Aggrieved by such non-inclusion, they have approached this Tribunal with these OAs.

4. On consideration of the rival contentions, it is clear that the applicants have essentially raised three grounds to justify inclusion of their names in the said panel. Firstly, their Annual Reports (for short, ACRs) for the relevant period 1995-



1999 were good enough to secure a place in the panel. One of them has also mentioned that there was a adverse entry in the ACR of 1998-99 but that was subsequently expunged and, therefore, even that ACR should be considered as 'Good'. Secondly, there have been various awards/appreciation letters in various years and these have not been considered by the Selection Board for assessing their overall service records and, therefore, their names could not find place in the panel. Thirdly, there were a maximum of 50 marks for viva voce of which 25 for records of service and 25 for viva voce and the qualifying marks were 30 including minimum of 15 marks for the record of service but the Selection Board did not assess their cases as per these stipulations. They have also placed before us a copy of the Railway Board letter No. E(NG) I-98/PMI/17 dated 20.10.99 which provided provisions for award of marks by the Selection Board under Para 11.4 but the same were not adhered to by the Selection Board. The respondents in reply have contended that the Selection Board assessed the service records and conducted the viva voce strictly as per the provisions of the law and since the applicant could not qualify in the viva-voce after participating in the process without any objection, they cannot now challenge the entire process after they could not find a place in the panel.

5. We have given our careful consideration to the rival contentions. In order to scrutinise the assessment made by the Selection Board, we called for the records of the Selection and have carefully examined the same.

6. Before we proceed to discuss the case further, we would like to mention that the Railway Board's letter dated 20.10.1999 mentioned earlier, as given to us by the learned counsel for the applicants, is not applicable in the instant case as these contained



guidelines for promotion of staff within Group 'C' whereas instant case involves promotion of Engineering Staff from Group 'C' to Group 'B'. We, however, take note of all the details of examination to be conducted as stipulated in the Notification and extract the relevant para 10 as under:-

"The examination will consist of

(a) Written examination.

(b) Viva-voce

The subjects for the examination and marks allotted for each of the papers and viva-voce are as under:-

<u>Written Examination</u>	<u>Maximum marks</u>	<u>Qualifying marks</u>
One paper on professional subject and on Estt. and Financial rules	150	90

(Out of 150 marks the professional subject will carry atleast 100 marks including one optional question to the extent of 15 marks on official language policy and rules)

<u>Viva-voce</u>	<u>Maximum marks</u>	<u>Qualifying marks</u>
I) Record of service	25	30 (including minimum of 15 marks in the record of service)
II) Viva voce	25	

The syllabus for Estt. and Accounts subjects have been circulated under this office letter No. E(G)102410 dated 7.7.83 which may be referred to.

The marks prescribed for qualifying in the written examination is 60%. Only those who qualify in the written examination will be called for viva voce test.

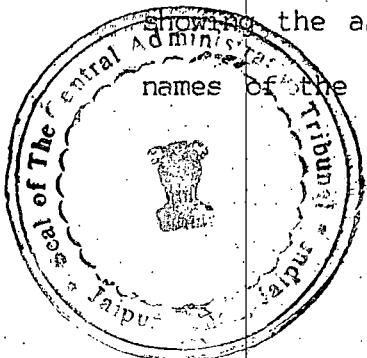


The marks of Record of service should be on the basis of Board's instructions contained in their letter dated 20.9.88. The viva-voce consists of personality address, leadership and academic and technical qualification of the candidates."

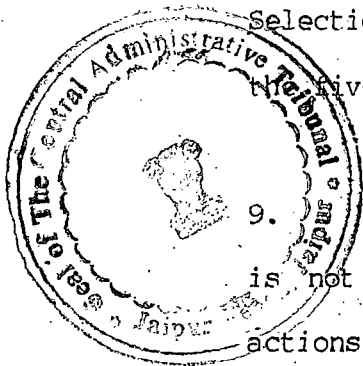
7. The said notification also postulates that "The marks of Record of service should be on the basis of Boards instructions contained in their letter dated 20.9.1988. We obtained a copy of the Board's letter No. E(GP)87/2/123 dated 19.9.1988 titled "Promotion from Class-III (now Group 'C') to Class II (Now Group 'B') Service-Awarding of marks". It provides for marks to be given to various overall gradings, ranging from 5 marks for 'Outstanding' and 1 for 'Below Average'. We find from the records that the Selection Board has given such markings. On the other hand, it does not provide for specific marks for awards/appreciation letters as contended on behalf of the applicants. We, therefore, accept the contention of the learned counsel for the respondents that the awards/appreciation letters were not required to be given separate marks but these were certainly taken into consideration in arriving at a overall grading by the Reporting/Reviewing Officers etc., wherever these figured in the ACRs. The recommendations of the Selection Board cannot, therefore, be flawed on this count.

also  
8. It is clear from a plain reading of the above extracts that records of service within the viva-voce carries maximum marks of 25 and within the qualifying marks of 30 a minimum 15 marks are required in the record of service. On going through the statement

showing the assessment of ACRs of all the candidates, we find that names of the applicants appear at 33, 34 and 35. We also find that



marks have separately been given for ACRs for the years 1995-1999. We further find that the statement has been signed by all the Members of the Selection Board. This having been done, we do not find any infirmity in the assessment of ACRs. The records of selection also have separate sheets of marks allotted by the Members and then a summarised statement showing marks allotted to various candidates who appeared in the viva-voce. Column 6 of this statement relates to "record of service out of 25, the qualifying marks". From this statement, it is noticed that all the three applicants figuring at Sl.No. 32,34 and 35 have obtained marks between 11.6 to 13.4 and thus have failed to reach the qualifying mark of 15. Therefore, we find no infirmity in the recommendation of the Selection Board and the first two grounds raised by the applicants have no leg to stand. As regards the question of consideration of various awards/appreciation letters, we examined the ACR Dossiers of the applicants. We noticed that in para 2 of the ACRs (Self Appraisal) the candidates have given details of various awards/appreciation letter they have received and, therefore, we do not have any reason to doubt the contention of the learned counsel for the respondents that the awards/appreciation letters have been taken into consideration while giving overall grading in the relevant ACRs. The applicants have, on the other hand, not been able to show us any rule which requires that every award/appreciation letter has to be given specific marks like 1 or 2 and, therefore, we cannot find fault with the assessment made by the Selection Board since it has awarded marks for each and every ACR for five years as required under the guidelines.



9. It is well settled principle in law that this Tribunal is not an appellate court but undertakes judicial review of the actions of the executive officers. In respect of interference by the Tribunal in the recommendations of the Selection Board/ DPCs, the law

as has developed over the years clearly restricts the powers of this Tribunal to interfere in the recommendations of the Selection Board/DPCs. Our interference is permissible only when the Selection Board/DPC has not followed the prescribed procedure or their recommendations were perverse or a particular candidate was discriminated against. The Selection Board has followed the prescribed procedure in the instant case and their recommendations are based on proper evaluation of the record of service. In the instant case the applicants have also not alleged bias against any Member of the Selection Board. The applicants have also not alleged discrimination against them. Even though they have mentioned the name of one Shri S.C.Saxena who has found place in the panel. We find that he was at higher place in the eligibility list being at Sl.No. 74 whereas the applicants were much below him at Sl.Nos. 211,212 and 215. Similarly, in the list of candidates who passed the written examination, the said Shri S.C.Saxena found place at Sl.No. 2 whereas the applicants are at Sl.No.30,34 and 35. Further, in the summarised statement showing marks obtained by various candidates the said Shri S.C.Saxena obtained 15 marks in the record of service and, therefore, qualified whereas the applicants had obtained less than 15 marks and, therefore, failed to qualify. It is, therefore, clear that the applicants have been treated by the Selection Board in the same manner as other candidates and they were in no way discriminated against.

10. In view of above discussions, we find no merit in the OAs and these are accordingly dismissed with no order as to costs.

11. The original record regarding the proceedings of the Selection Board including the ACRs of the applicants may be returned to the learned counsel for the respondents.



(P.NAWANI)

Mem. Member

**TRUE COPY ATTESTED**

Section Officer (Judicial)  
Central Administrative Tribunal  
Jaipur Bench, JAIPUR

(S.K.AGARWAL)

Judl. Member

17-5-2007