

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 09.11.2004

Original Application No.567/2003.

1. Krishan Murari, S/o Shri Hari Narayan, aged about 47 years, R/o 4-Cha-21, Housing Board, Shastri Nagar, Jaipur.
2. Suresh Vikram Singh, S/o Shri V. N. Singh, aged about 39 years, R/o Shri Gopalam Apartments, D-238, Bihari Marg, Banipark, Jaipur.

... Applicants.

v e r s u s

1. Union of India through General Manager, Northern Western Railway, Jaipur.
2. Divisional Railway Manager (Establishment), Northern Western Railway, Jaipur.

... Respondents.

None is present for the applicant.
Mr. Hawa Singh, proxy counsel for
Mr. V. S. Gurjar counsel for respondents.

CORAM

Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicants (two in number) have filed this Original Application against the order dated 27.11.2003 (Annexure A/1) whereby they have not been included in the panel prepared for the post of Loco Inspector in the pay scale of Rs.6500-10500. In relief clause they have prayed that the impugned order dated 27.11.2003 (Annexure A/1) be quashed and the respondents be directed to draw the panel on the basis of over all merit instead of seniority.

2. The facts of the case are that the notification dated 26.08.2003 (Annexure A/2) was issued by the respondents for filling up 9 posts of Loco Inspector in

the pay scale of Rs.6500-10500/-. Out of these 9 posts, 2 posts were reserved for SC community whereas the remaining 7 posts were for general category. Thereafter the respondents issued an eligibility list vide order dated 08.09.2003 (Annexure A/3), in which the name of the applicants appears at Sl. No.12 & 19 of the said list. Thereafter the written test was conducted by the respondents on 01.10.2003. The applicants were also declared successful in the written test vide order dated 31.10.2003 (Annexure A/4). The grievance of the applicants is that inspite of having been declared successful in the written test, the respondents have issued panel dated 27.11.2003 solely on the basis of the seniority whereas the same has to be prepared on the basis of over all merit i.e. on the basis of mark obtained in the written test or in viva-voce. Further grievance of the applicants is that as against 2 posts reserved for SC community, 4 persons have been included in the panel. It is on these basis, the applicants have filed this OA thereby praying for the aforesaid reliefs.

3. The respondents in their reply have denied the allegations levelled by the applicants in the OA. The respondents have categorically stated in the reply that the panel has to be prepared not only on the basis of the written examination but on the basis of written examination, service record and seniority. It is further stated that mere possession of eligibility by the applicants to hold a particular ~~post~~ ^{post} does not confer any right in their favour unless they are found successful in the selection process after consideration their cases along with all other eligible candidates who participated in the selection. The panel was prepared in accordance with rule after considering their cases along with other eligible candidates who participated in the selection process. It is further stated that nothing has been placed on record by the applicants to substantiate the averments made in reference to the fact that they had secured more marks than the candidates who have been selected

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and placed on the panel and according to the respondents the present application cannot be entertained on the basis of vague averments made in the OA. As regards the selection of 4 candidates against 2 reserved posts, the respondents have stated that according to the Railway Board's Circular/letter dated 07.08.2002, the employees who secured selection on the basis of their merit are counted in the General category and not against the reserved quota vacancies in the relevant category. Hence the promotion of Shri Ramesh Chand/Sedia (S.C.) cannot be said to be in excess of the reservation for the SC category and similarly promotion of Shri Babu Singh is also not in excess of the reservation of the ST category. Out of the panel consisting of 9 posts as shown in Annexure A/1 dated 27.11.2003 the candidate at Sl. No.1 of SC has been selected on his merit and similarly the candidate at Sl. No. 9 [Babu Singh/Bassa Ram (S.T.)] has been selected on his merit and, therefore, they have not been counted in the respective reserved category. Whereas Shri Mahesh Kumar/Panna Lal and Shri Kallu Prasad/bachchu Prasad have been selected against reserved quota of SC category and these facts were detailed out specifically in Note No.7 in the office order dated 19.12.2003. Thus according to the respondents, the panel has been prepared in accordance with rules.

4. The applicants were given opportunity to file rejoinder. Despite repeated opportunities, the applicants have not filed rejoinder. When the matter was listed on 20.07.2004, the applicant was granted opportunity to file MA for impleading certain persons as party and on the request of learned counsel for the applicant, the matter was adjourned to 18.08.2004. When the matter was listed on 18.08.2004, the matter was again adjourned to 20.09.2004, in order to take steps pursuant to order dated 20.07.2004. Again on 20.09.2004, the matter was adjourned to 09.11.2004 and it was made clear that no further adjournment shall be granted on the next date. When the matter was taken up

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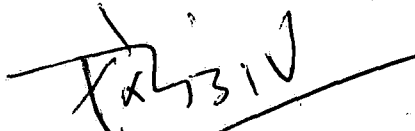
for hearing by this Tribunal on 09.11.2004, none has put in appearance on behalf of the ^{is applicant} ~~applicant~~. It was further recorded that none has appeared on behalf of the applicant on 18.08.2004, again on 20.09.2004 and even today none has appeared on behalf of the applicant, it appears that the applicants are not interested in pursuing the matter. However, on the material placed on record this Tribunal decided to proceed the matter on the basis of material placed on record and accordingly the matter was decided on merit.


5. From the material placed on record, it is not disputed that both the applicants were eligible for promotion to the post of Loco Inspector in the pay scale of Rs.6500-10500 and their names were also included in the eligibility list dated 08.09.2003 (Annexure A/3). It is also not in dispute that they have also qualified the written examinations. It has further come on record that the selection panel was prepared on the basis of written examination, service record and seniority and according to respondents the select panel was prepared as per rules and since the applicants have ^{not} secured more marks than the candidates who have been selected and placed on panel, as such, their names were ^{not} included in the panel. The respondents in Para 5(a) of their reply have also categorically stated that "There is nothing on record to substantiate the averments made by the applicants in reference to the fact that they had secured more marks than the candidates who have been selected and placed on the panel. The original application is without any substance and therefore merits rejection."

6. The applicants were given opportunity to file rejoinder, in order to show that the select panel was not prepared according to merit. As already stated above, despite repeated opportunities the applicants have failed to file rejoinder thereby justifying that the select panel has not been prepared in accordance with merit. Under these circumstances, we are of the view that the applicants have not made out any case for

our interference. Accordingly the OA is bereft of merit and the same deserves to be dismissed. Besides this, the applicants have not impleaded selected persons as respondents in this OA. Despite number of opportunities granted to the applicants in that behalf even on this ground also the OA filed by the applicants deserves to be dismissed. Similarly the applicants have also not made out any case that in the select panel more than 2 persons were appointed against the SC community. The respondents have explained the circumstances as to how two persons belonging to reserved category were included in the general category which is permissible in accordance with Railway Board Circular dated 07.08.2002, as those two persons have secured selection on the basis of their merit and they are to be counted in general category and not against reserved quota vacancy in the relevant category. Further the applicants have also not challenged the validity of Railway Board's circular dated 07.08.2002. As such, the applicants are also not entitled to relief on this ground also.

7. For the reasons stated above, the OA is bereft of merit and is accordingly dismissed with no order as to costs.


(A. K. BHANDARI)
MEMBER (A)


(M. L. CHAUHAN)
MEMBER (J)