

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 9/07/04

Original Application No.575/2003.

1. Vijay Kumar Gautam S/o N. K. Gautam, aged 42 years, Record Sorter (Ad hoc) 23.10.2002 Shop No.22 Carriage and Wagon Workshop, North West Railway, Ajmer and R/o Ambabadi Topdara, Ajmer.
2. Phool Shanker Mishra S/o Shanker Lal Mishra, aged, 50 years, Record Sorter (Ad hoc) Head Office Loco Workshop, North West Railway, Ajmer and R/o 459/27, Indrapuri Jhonganj, Ajmer.
3. Rajendra Singh S/o Harjinder Singh, aged 32 years, Ticket No. 6907/33, Helper Khallasi, Carriage and Wagon Workshop, North West Railway, Ajmer and R/o 71-D New Colony, Ramganj, Ajmer.
4. Abdul Samad Khan S/o Abdul Majeed Khan, aged 33 years, Helper Khallasi Ticket No.42527/28 Carriage and Wagon Workshop, NorthWest Railway, Ajmer, R/o 16/465, Near Shahi Masjid Andheri Pulia, Pal Beesla, Ajmer.
5. Mohd. Naseemuddin Qureshi S/o Mohd. Ayub Qureshi, aged 46 years, Khallasi, Ticket No.96556/TL C&W Workshop, North West Railway, Ajmer and R/o Gulab Shah Ka Takiya, Topdara, Ajmer.
6. Kamal Kishore S/o Shri Pooran Chand, Record Sorter, E-II, Head Office, Loco Workshop, N.W. Railway, Ajmer and R/o 321/34, Palbisla, Ajmer.
7. Narsingh S/o Nagadiram aged about 48 years, Record Sorter, W.P.S. Loco Workshop N.W. Railway, R/o 61/12 E, Ajmer.

... Applicants.

versus

1. Union of India through General Manager, North West Railway, Jaipur.
2. Chief Works Manager, Loco Workshop, North West Railway, Ajmer.

... Respondents.

Mr. N. K. Gautam counsel for the applicants.
Mr. Tej Prakash Sharma counsel for the respondents.

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

: O R D E R :
(per Hon'ble Mr. M. L. Chauhan)

The applicants who are seven in number have filed this Original Application thereby praying for the following reliefs :-

- "i) direct the respondents to get the answer books of applicants reevaluated by some other impartial and competent person.
- ii) direct the respondents to take interview of the applicants alongwith other declared successful candidates, if they are declared successful after revaluation.
- iii) to make payment of cost of this application to the applicants.
- iv) any other relief, the Hon'ble Tribunal consider just and reasonable in the facts and circumstances of the case."

2. The facts of the case are that the applicants were appointed as Group 'D' employees by the Railway authorities. Further promotion due for the eligible employees of Group 'D' were to the post of Record Sorter. The respondents intended to fill up the post of Record Sorter and for that purpose vide notification dated 23.07.2003, applications in prescribed proforma were invited, copy of this notification has been placed on record as Annexure A-2. It was mentioned in the said notification that all the Group 'D' employees who have put in more than 3 years of regular service shall be eligible. It is the further case of the applicants that pursuant to the said notification dated 23.07.2003, a list of eligible candidates were prepared vide respondents letter dated 13.09.2003 (Annexure A-3) and out of 149 candidates, 141 candidates were found eligible whereas remaining 8 candidates were shown as not eligible. Thereafter the respondents conducted the written test on 04.10.2003. But the standard of question paper was above to that required to test the ability for

6. We have heard the learned counsel for the parties and gone through the material placed on record. It is not disputed that the post of Record Sorter in the pay scale of Rs.2750-4400/- was required to be filled in on the basis of written test as well as oral interview from the candidates who have rendered three years regular service in the cadre and for that purpose a notification was issued on 23.07.2003 (Annexure A-2). Written test was held on 04.10.2003 but the applicants could not qualify the said test. The respondents have specifically stated that the written test was held as per procedure prescribed by the Railway Board and thus every employee of Group 'D' who have applied for the post of Record Sorter are to be called for written test, as per procedure of 'General Selection'. Hence, three times of calling of employees are not applicable in the case of Record Sorter's post. The applicants have not refuted this statement made by the respondents in the reply. Thus, the contention of the applicants that the eligibility should have been prepared in respect of those who comes within the zone of consideration i.e. three times the number of vacancies and all the eligible Group 'D' candidates ought not to have been called for the written test cannot be accepted. Further contention of the applicants that in the eligibility list the name of the person appearing at Sl. NO.10, 142, 143 & 144 of Annexure A-3 was shown as Record Sorter instead of "ad hoc Record Sorter" does not improve the case of the applicants. Annexure A-3 where the name of these persons has been mentioned is the eligibility list. Thus even if the aforesaid persons have been shown as REcord Sorter, they were also required to appear in the written examination. Thus, nothing turns out from the submissions made by the applicant on this aspect. Similarly contention of the applicants that the persons mentioned at Sl. NO. 7,8,19,23,30,83,84 & 86 of Annexure A-3 were wrongly shown as eligible in the eligibility list Annexure A-3 is of no consequence. According to the respondents these names were wrongly typed in Annexure A/3 which was subsequently deleted from the list while comparing the said stencil and foot note . We have also

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the post of Record Sorter. Thereafter respondent No.2 vide notification dated 28.11.2003 (Annexure A-1) notified the result of written test and the successful candidates were asked to appear in oral interview to be held on 10.12.2003 at 10:00am. However, the name of the applicants do not find mention in the said list. It is against this order, the applicants have filed this Original Application thereby praying for the aforesaid reliefs.

3. The grievance of the applicants in this OA is that some of the applicants were working as Record Sorter on ad hoc basis and the applicants were diploma holder of the Institute of the Railway Transport, There was no possibility of declaring them unsuccessful in the written test as such the applicants are required to be declared as successful in the written test.

3.1 Further grievance of the applicants is that the applicants have been declared unsuccessful due to non applying the uniform standard of marking. Thus, according to the applicants, the result in question is required to be reviewed while declaring the applicants as successful candidates. Further grievance of the applicants is that though according to notification Annexure A-2, 28 posts of Record Sorter was required to be filled in from general category and 3 posts from the reserved category, as such, only 84 candidates from general category should have been considered against general category and 9 candidates from reserved category but while declaring the result this ratio have not been maintained. On these grounds the applicants have filed this OA.

4. Notice of this application was given to the respondents. Respondents have filed reply. In the reply, it has been stated that as per the Railway Rules, there is no provision to regularise the ad hoc Record Sorter to regular post of Record Sorter without passing the selection test meant for the said post. Since the matter relates to the selection, it is for the Selection

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Board to select the candidates as per norms and procedure laid down in selection procedure of Railway Board. It is further stated that all the eligible employees of Group 'D' who have applied for the post of Record Sorter are to be called for written test, as per procedure of General Selection. Hence three times of calling of employees is not applicable in the case of Record Sorter's post. It is further stated that any eligible employee of any community can apply for the post of General category and all who have applied for the post of Record Sorter were called for written test. Accordingly, result of successful employees were declared after adjudging their written test by member of selection board and as per their recommendations. According to the respondents there is no error or irregularity in the selection of the Record Sort and the selection was conducted as per procedure laid down under Railway Rules. It is further stated that having higher academic qualifications or possessing Railway Transport Diploma by the employees does not mean that they have right to be posted against notified posts without passing the selection of Record Sorter or declared pass in the written test. Since the applicants could not pass the requisite written test, they have been reverted to the post which was held by them before ad hoc promotion.

5. The applicants have filed the rejoinder. In the rejoinder, it has been stated that in the eligibility list Annexure A-3 against Item No.10, 142, 143 and 144 persons have been shown as Record Sorter, inspite of the fact that they are Ad hoc Record Sorters. Similarly against Item No.7,8,19,23,30,83,84 and 86, persons were included in the list inspite of the fact that they were not eligible. Thus according to the applicant, respondents are not careful/efficient in preparing the eligibility list and as such the entire selection is vitiated. The applicants have also annexed judgement dated 18.05.1993 passed by this Tribunal in OA NO.404/91 with the rejoinder and submits that on the basis of this judgement relief should be granted to the applicants.

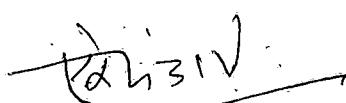
6. We have heard the learned counsel for the parties and gone through the material placed on record. It is not disputed that the post of Record Sorter in the pay scale of Rs.2750-4400/- was required to be filled in on the basis of written test as well as oral interview from the candidates who have rendered three years regular service in the cadre and for that purpose a notification was issued on 23.07.2003 (Annexure A-2). Written test was held on 04.10.2003 but the applicants could not qualify the said test. The respondents have specifically stated that the written test was held as per procedure prescribed by the Railway Board and thus every employee of Group 'D' who have applied for the post of Record Sorter are to be called for written test, as per procedure of 'General Selection'. Hence, three times of calling of employees are not applicable in the case of Record Sorter's post. The applicants have not refuted this statement made by the respondents in the reply. Thus, the contention of the applicants that the eligibility should have been prepared in respect of those who comes within the zone of consideration i.e. three times the number of vacancies and all the eligible Group 'D' candidates ought not to have been called for the written test cannot be accepted. Further contention of the applicants that in the eligibility list the name of the person appearing at Sl. NO.10, 142, 143 & 144 of Annexure A-3 was shown as Record Sorter instead of "ad hoc Record Sorter" does not improve the case of the applicants. Annexure A-3 where the name of these persons has been mentioned is the eligibility list. Thus even if the aforesaid persons have been shown as Record Sorter, they were also required to appear in the written examination. Thus, nothing turns out from the submissions made by the applicant on this aspect. Similarly contention of the applicants that the persons mentioned at Sl. NO. 7,8,19,23,30,83,84 & 86 of Annexure A-3 were wrongly shown as eligible in the eligibility list Annexure A-3 is of no consequence. According to the respondents these names were wrongly typed in Annexure A/3 which was subsequently deleted from the list while comparing the said stencil and foot note. We have also

perused the list Annexure A-1 which contains all persons who have qualified the written test. The name of these persons do not find mention in the said list. As such this is not a case where ineligible persons were declared successful in the written test and was further allowed to appear in the oral interview. Thus, the applicants cannot have any grievance on this count also. As already stated above, the selection to the post of Record Sorter has to be made from Group 'D' employees having 3 years of regular service by way of selection which pre-possess written test as well as oral interview. As such the applicants who have not qualified in the written test cannot have any grievance regarding their selection to the post of Record Sorter simply on the basis that they were allowed to work as Record Sorter on ad hoc basis for about one year and also that some of them have obtained diploma from Institute of Railway Transport. Possessing of higher qualifications does not ipso-facto entitle a person to be selected to the post in question where the selection has to be made on the basis of written test and oral interview.

7. Further contention of the applicants that the respondents have not resorted to the uniform standard of marking as such direction be issued to the respondents to evaluate the answer book of Record Sorter's test of 2003 as was ordered by this Tribunal in the case of Navin Pandey & Ors. vs. Union of India & Ors. OA No.404/1991 decided on 18.05.1993 (Annexure A-15) cannot also be accepted. The judgement relied upon by the learned counsel for the applicant is not applicable in the facts and circumstances of this case. That was a case where selection was held for the post of Apprentice Mechanic. However, the test itself was cancelled and the results were not declared. The reason for cancellation of the test was that on receipt of certain complaints, the competent authority himself examined a few answer books of successful as well as unsuccessful candidates securing more than 50 marks and it was found that a uniform standard of marking had not been maintained while evaluating answer book thereby creating anomalies in the

result of the written test. The Tribunal gave the finding that the entire test could not have been cancelled on this ground and under these circumstances, the Tribunal directed that the answer books of the test already held may be got revalued and the respondents were directed not to hold a fresh test. The same is not the case in the present OA. As such, the applicants cannot draw any assistance from this decision.

8. For the aforesaid reason, the OA is dismissed with no order as to costs.


(A.K. BHANDARI)

MEMBER (A)


(M. L. CHAUHAN)

MEMBER (J)