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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Original Application No. 417 of 2006

Jabalpur, this the 30th day of August, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

Raj Kumar Mamtani, S/o. Bhagwandas, Aged (not mentioned) years, 609, Katnu Nagar, PO : Ratlam (MP).

-Applicant

(By Advocate – Shri A.N. Bhatt)

Versus

The Union of India & Ors. Represented by :

1.The General Manager, Western Railway, HQ Office,
Churchgate, Mumbai – 20. BR

2.The Divisional Rail Manager, Western Railway, DRM
Office, Do-Batti, PO : Ratlam (MP).

-Respondents

ORDER

By A.K. Gaur, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief:

“8.1 The selection for the post of Asstt. Mechanical Engineer (Loco/Diesel) held and its panel notified on 15.3.2005 (sic – 16.3.2005) may kindly be either quashed or the name of the applicant may be interpolated in this panel against the one vacancy which was in existence due to short panel by one vacancy against 7 vacancies of the General candidates,

8.2 The Annexures A/1 and A/2 may kindly be quashed,

5.3 (sic)The name of the applicant be placed on the panel at his due place and modified panel may be ordered to be published,

8.3 All the consequential benefits at par to his juniors may kindly be awarded including the financial benefits”.

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2. The brief facts of the case are that the applicant is working as Senior Section Engineer under the respondent no.2. A notification dated 29.10.2004 was issued by the headquarter office for selection for the post of Assistant Mechanical Engineer (L/D). Out of 11 vacancies 70% was for departmental quota. The applicant has participated in the selection and also appeared in the written examination held on 11th December, 2004. According to the applicant, after qualifying in the written examination, he has participated in the viva-voce. The grievance of the applicant is that he has never been communicated any adverse remark or reprimanded by his superiors and is doing his duty to the best of his ability. Still his name has not been included in the panel prepared by the respondents. He had earlier approached this Tribunal by filing OA No.982/2005, which was disposed of vide order dated 18.10.2005 with a direction to the respondents to consider his representation dated 19.4.2005 and take a decision on the same by passing a speaking, detailed and reasoned order. In compliance of the said order, the respondents have passed the impugned order dated 14.12.2005 rejecting the claim of the applicant. Hence this Original Application.

3. Heard the learned counsel for the applicant and carefully perused the impugned order dated 14.12.2005.

4. The learned counsel for the applicant has argued that the applicant has obtained more than 80% marks in the written examination; he had replied all the questions with full satisfaction being subjective questions; he is also having technical qualification and working as such for the last 22 years without any punishment. The applicant was having extra qualification of law and having a very good and long experience of vigilance branch, also having worked as a Chief Vigilance Inspector, and that no adverse confidential report was ever communicated to him nor any penalty was imposed, still the applicant has not been selected. He has further argued that the oral test for

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personality, professional ability, qualification, service records, seniority etc. has got no meaning for evaluation.

5. We may reproduce the relevant portion of the impugned order as under:

"From the selection proceedings, it is evident that Shri Mamtani has failed to secure the requisite 30 marks, which is mandatory to qualify for passing, out of 50 including at least 15 marks in the record of service. He has neither secured the requisite benchmark under the heading "Record of Service" nor 30 marks out of 50, as required for viva voce & Record of Service. As such, he did not find place in the provisional panel of AME(L/D) notified on 16.03.2005".

From the above extract of the impugned order it is evident that the applicant has failed to secure the requisite 30 marks, which is mandatory to qualify for passing, out of 50 including at least 15 marks in the record of service. He has neither secured the requisite benchmark under the heading "Record of Service" nor 30 marks out of 50, as required for viva voce & Record of Service. As such, he did not find place in the provisional panel of AME(L/D) notified on 16.03.2005.

6. It is the settled position of law that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the executive. It is not for judicial bodies to sit in judgment over the wisdom of the executive in choosing the mode of recruitment or the categories from which the recruitment should be made as they are matters of policy decision falling exclusively within the purview of the executive (see *State of Andhra Pradesh & anr. Vs. V.Sadanandam & ors*, AIR 1989 SC 2060). In the instant case we find that the posts were required to be filled up by selecting suitable persons and the selection was to be made on the basis of written test and viva voce. The applicant has neither secured the requisite benchmark under the heading "Record of

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Service" nor 30 marks out of 50, as required for viva voce & Record of Service. As such, his name has rightly been not included in the provisional panel of AME(L/D) notified on 16.03.2005. In this view of the matter, we do not find any merit in this Original Application.

7. In the result, the Original Application is dismissed, however, without any order as to costs.


(A.K. Gaur)
Judicial Member

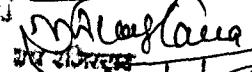

(Dr. G.C. Srivastava)
Vice Chairman

rkv

कृष्णांकन सं ओ/बस.....अबलपुर, दि.....
पल्लिविदिदि.....

- (1) सविता, नरेश, नारायण, नारायण, नारायण, नारायण
- (2) अशोक, अशोक, अशोक, अशोक, अशोक, अशोक
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- (4) राजेश, राजेश, राजेश, राजेश, राजेश, राजेश

सूचना 19-11-2005 को जारी की गई


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