

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,
JABALPUR

Original Application No. 582 of 2003

Bilaspur, this the 3rd day of February, 2005

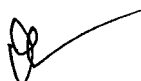
Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Radha Kishan Satwani, aged about 40 years,
S/o. Shri M.R. Satwani, Sr. Goods Guard,
Western Railways, R/o. 27-A, Indira Nagar,
Ratlam.
 2. Krishna Chand Vyas, aged about 52 years,
S/o. Shri the late Giridhari Lal, Sr. Goods Guard,
Western Railways, R/o. 41, Sethjee Ka Bazar,
Ratlam.
- Applicants

(By Advocate – None)

V e r s u s

1. The Union of India, through the Secretary,
to Railways Department, Rail Bhawan,
New Delhi.
2. General Manager, Western Railways,
Church Gate, Mumbai.
3. Divisional Railways Manager,
Ratlam, MP.
4. Shri Ramjee Lal Meena, Passenger Guard,
Western Railways, Ujjain, M.P., C/o. Station
Manager, Ujjain.
5. Shri Lalta Prasad Sagar, Passenger Guard,
Western Railways, Mhow, C/o. Station Manager,
Mhow, MP.
6. Shri Darshan Chiman Lal Malik,
Passenger Guard, Mhow, C/o. Station Manager,
Mhow, MP.



7. Shri Shanti Lal C.,
Passenger Guard, Western Railways,
Ujjain, C/o. Station Manager, Ujjain.
8. Shri Virendra Kumar Katija, Sr.
Goods Guard, Western Railways, Ratlam,
C/o. Station Manager, Ratlam, MP.
9. Indra Deo Prasad, Sr. Goods Guard,
Western Railways, Ratlam,
C/o. Station Manager, Ratlam. Respondents

(By Advocate – Shri M.N. Banerjee)

ORDER

By Madan Mohan, Judicial Member –

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

“8.1 that by issuance of a writ in the nature of Certiorari the selection dated 3.3.2003 (A-7) may be quashed, directing the respondent Railways to redo the exercise and select persons according to the notification (A-1),

8.2 that by issuance of a writ in the nature of Certiorari the order of rejection of objection taken by the petitioners in regard to the seniority list of 14.2.2003 may be quashed,

8.3 that by issuance of writ in the nature of Mandamus the Hon'ble Tribunal may be pleased to direct the respondents not to treat the respondent No. 4 to 9 as Sr. Goods Guards for promotion to the post of Passenger Guards over the petitioners,

8.4 that by issuance of a further writ in the nature of Mandamus the Hon'ble Tribunal may be pleased to direct the respondents Railways to fix the respondent no. 4 to 9 in the seniority list of Sr. Goods Guards at places and from such dates on which they became entitled to be promoted as Sr. Goods Guards and not to retain in the seniority list of 29.6.1999 and block as was done in their cases,

8.5 that by issuance of a writ in the nature of Mandamus this Hon'ble Tribunal may be pleased to command the respondents to hold a review DPC of selection of the petitioners as Passenger Guards as against the respondent no. 4 to 7.”



2. The brief facts of the case are that the applicants are in the service of the Western Railways working as Sr. Goods Guards. From amongst Sr. Goods Guards promotions are to be made to the post of Passenger Guards in the pay scale of Rs. 5000-8000/-. The Sr. Goods Guards also get the same pay scale. Same is the procedure in respect of Passenger Guards, who on the basis of seniority are promoted as Sr. Goods Guards in the 20% quota in the pay scale of Rs. 5500-9000/-. The Western Railways by a notification dated 12.11.2002 declared 12 posts of Passenger Guards to be filled in by promotion from amongst the Sr. Goods Guards. A letter dated 28.1.2003 was issued calling persons from 2 to 19 for interviews on 18.2.2003 and from 20 to 37 on 19.2.2003. Both the applicants were called on 19.2.2003. However, they went to the office of the DRM on 18.2.2003 as and they learned that new seniority list has been published on 14.2.2003 and the selections were being made according to that seniority list. In this seniority list 6 persons who were junior to the applicants were placed above them. 6 persons are respondents Nos. 4 to 9. Out of six persons 4 have been selected. The result was declared on 3.3.2003. The applicants submitted objection to the gradation list dated 14.2.2003 on 11.6.2003 i.e. within four months. But it was rejected by the respondents vide letter dated 22.7.2003. The applicants are challenging this rejection by filing the present Original Application. The official respondents have granted undue advantage to the private respondents depriving the applicants of their legitimate rights to be so promoted as Passenger Guards.

3. None for the applicants. Since it is an old case of 2003, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

4. It is argued on behalf of the respondents that the mode of selection for Passenger Guard is by way of oral interview only. The selection was



to be made on the basis of the performance of the candidates in the oral interview and not on the basis of the seniority only, as alleged by the applicants. The private respondents who were selected have qualified in the interview, whereas both the applicants who were also the candidates in the interview and have actually appeared in the selection have failed. In view of this fact, the question of their selection/appointment does not arise. Now at this stage the plea of the applicants that the examination was bad as the seniority position was not properly fixed has no material effect on the selection. The applicants' names were there in the zone of consideration and they have actually participated in the selection and have been unsuccessful. The selection was conducted as per the rules and there is no illegality or irregularity in the action of the official respondents. The whole action of the respondents is perfectly legal and justified. Hence, this OA deserves to be dismissed.

5. After hearing the learned counsel for the respondents and on careful perusal of the records and pleadings, we find that the applicants have appeared in the interview conducted by the respondents but they could not succeed in it and the mode of selection for the post of Passenger Guards is by way of oral interview only. This fact is not controverted by the applicants by filing any rejoinder. The private respondents who were selected, were declared successful in the said interview conducted by the respondents. We have perused Annexure R-1 and in its paragraph 3(b) it is provided that "the posts of Passenger Guard scale Rs. 1350-2200/- (Selection post) should be filled on the basis of record of service, personality and professional ability adjudged by viva-voce test only. No written test should be held for these posts". This document is also not controverted by the applicants. Thus we find that no illegality or irregularity has been committed by the respondents while conducting the selection procedure and also while considering the cases of the applicants.



6. Hence, we are of the considered opinion that the applicants have failed to prove their case and this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.



(Madan Mohan)
Judicial Member



(M.P. Singh)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/न्या. जबलपुर, दि.
पत्तिलिपि अवधि:-

- (1) सचिव, उच्च न्यायालय नगर एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/बु. के काउंसल *U. Tiwari AN 100*
- (3) प्रत्यक्षी श्री/श्रीमती/बु. के काउंसल *M.N. Benarjee AN 100*
- (4) वरिष्ठपाल, को.प.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

*Issued
on 10.2.05
BS*