

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 821 of 2002

Indore this the 21st day of July, 2004

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

1. Pannalal
S/o Shri Kimatlal,
Aged about 42 years, Sr. Gangman
O/o Sr. Section Engineer,
P-Way Yard, Central Railway,
Jabalpur.
2. Rajendra Kumar
S/o Shri Ayodhya Prasad,
Aged about 41 years,
Junior Gangman,
O/o Sr. Section Engineer,
P-Way Yard, Central Railway,
Jabalpur.

APPLICANTS

(By Advocate - Shri M.Sharma)

VERSUS

1. Union of India
Through General Manager,
Central Railway,
Chhatrapati Shivaji Terminus,
Mumbai.
2. The Divisional Railway Manager(P)
Central Railway, Jabalpur Division,
Jabalpur(M.P.)
3. Khushiram
S/o Ramchandra, P-Way Supervisor
O/o Sr. Section Engineer,
Central Railway, Maihar(M.P.)
4. Shri Shanker Prasad
S/o Sikram
O/o Sr. Section Engineer,
P-Way, Central Railway,
Maihar(M.P.)
5. Ram Dayal
S/o Lodhiram, Keyman
O/o Sr. Section Engineer,
P-Way, Central Railway,
Manikpur(M.P)
6. Ashok Singh S/o Bhagwant,
Gangman, O/o Sr. Section
Engineer, P-Way, Central
Railway, Maihar(M.P.)

RESPONDENTS

(By Advocate Shri H.B. Shrivastava)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the following main reliefs :-

"ii) To quash and set aside the impugned orders dated 23.10.2001 and 14.6.2002 and 17.10.2002, Annexure A-1, A-2 and A-3 respectively to the extent necessary for the purposes of the instant challenge.

iii) To direct the respondent authorities to disclose the marks obtained by the applicants vis-a-vis other successful candidates as contained in Annexure A-1 and A-2 and in the event, the applicants have performed better than any of the enrolled category of their category, it may be directed that the applicants be enrolled forthwith with effect from the respective dates, the results were declared withal the consequential benefits of pay, perks and arrears thereof".

2. The brief facts of the case are that the applicant no.1 is working as Senior Gangman while the applicant no.2 is working as Junier Gangman. In April, 2001, 8 posts in general category of P-Way Mistry in the scale of Rs.4500-7000 became available to be filled up by the Limited Departmental Competitive Examination (for short 'LDCE') (25% quota). In pursuance of the notification, both the applicants had applied and appeared in the written examination which was held on 18.8.2001 and qualified in the same. The LDCE comprises of two parts - written and oral. Hence after qualifying the main written examination, the applicants appeared in the oral examination and performed fairly well. However, in the final result, the names of the applicants did not figure in the list of successful candidates. The respondents 3 & 4, who were junior to the applicants, have been selected.

3. The applicants have again appeared in the written examination held on 20.4.2002. This time also both the applicants qualified the written examination, and they appeared in the viva voce held on 29.5.2002. Since the applicants have not been selected, they have filed this OA claiming the afore-mentioned reliefs.

M.P. Singh

4. The respondents in their reply have stated that both the applicants had appeared in the two IDCEs but could not be selected as they did not come to the required standard as fixed for selection. Hence declared unsuitable. The respondents have submitted that securing of 60% qualifying marks, in professional ability which comprises of written test as well as viva voce, ^{is} ~~are~~ essential, as per provisions of the rules of selection. The respondents have further submitted that both the applicants were called for interview/test. The applicant no.2 could not secure qualifying marks in professional ability, hence not found as suitable. The applicant no.1 could not come up, as the panel was prepared in accordance with the instructions (Annexure-R-1). The final panel was prepared on the basis of inter se seniority amongst the candidates who have secured 60% marks in professional ability, as well as secured over all aggregate of 60%, but less than 80%. Those securing 80% and above marks are placed as 'outstanding'. The procedure laid down for formation of panel of successful candidates has been clarified vide Railway Beard's letter dated 16.11.1998. It will be thus appreciated that the selection has been conducted strictly as per provision of rules on the subject. In the earlier IDCE, both the applicants could not secure the minimum qualifying marks of 60%, hence could not be selected.

5. Heard the learned counsel of both the parties. On our direction, the learned counsel for the respondents has produced the records of selection.

6. We find that the applicants have appeared in the IDCE for the post of P.Way Supervisor/Mistry on 18.10.2001. It is seen that both the applicants have passed the written test as they have secured 60% marks, but they have failed in the viva voce and that is why they have been declared as unsuitable.

7. We have also seen the selection proceedings of the selection held on 29.5.2002 and 3.6.2002. We find that the

applicant no.1 has passed in the written test as well as viva voce. He has also finally been found suitable as he has acquired over all more than 60% marks, whereas applicant no.2 has even failed in the professional ability test. We have also seen that although applicant no.1 has been found suitable for appointment, but he has not been placed in the panel because of the vacancy position. Since there were only 9 vacancies for general candidates, all the 9 persons who have been placed in the panel had qualified the final test and are senior to the applicant no.1. Moreover, we have also found that the contention of the applicant that private-respondents 5 & 6 who have also been empanelled are junior to the applicants next is not correct. Both of them have been empanelled as they have qualified in the final test and are senior to both the applicants with reference to their initial date of appointment as well as in the present grade.

8. In the result, for the reasons recorded above, the OA is without any merit and is accordingly dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अवो डित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल M. Sharma
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल H.B. Bhivdasra
- (4) विधायक, केप्रा., जबलपुर न्यायपीठ

सूचना एवं आवश्यक कार्यवाही हेतु *D.M.D.*
उप रजिस्ट्रार *S.B. 64*

Issued
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or