

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No. 863 of 2002

Bilaspur, this the 12th day of December, 2003

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri G.Shanthappa - Judicial Member

Smt. K.Kameshwari, W/o Shri K.Madhusudan Sharma,
aged about 49 years, R/o 544/A, Zone-I, Bhilai
Marshalling Yard, Charoda, District Durg,
Chhatisgarh. - APPLICANT

(By Advocate - None)

Versus

1. Union of India through Chairman Railway Board,
Rail Bhawan, New Delhi.
2. General Manager, South Eastern Railway,
11, Garden Reach Road, Calcutta-3.
3. Divisional Railway Manager, South Eastern
Railway, Bilaspur.
4. Senior Divisional Electrical Engineer (TRS)
South Eastern Railway, Marshalling Yard,
Bhilai, Dist-Durg (Chhatisgarh).
5. Smt.Lipika Bhadra, C/o Senior Divisional
Electrical Engineer, T.R.S. Bhilai Marshalling
Yard, District Durg.
6. M.K.Bhargawa, C/o Senior Divisional Personnel
Officer, D.R.M.Office, Bilaspur - RESPONDENTS

(By Advocate - Shri H.B.Shrivastava)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

None is present on behalf of the applicant. So, we are disposing of this Original Application, in the absence of counsel for the applicant, by invoking the provisions of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant has filed this Original Application seeking a direction to quash the order dated 13.9.2002 whereby private respondents 5 & 6, who are junior to the applicant, have been promoted. She has also prayed for a direction to the respondents to promote her to the post of Office Superintendent Grade-II in the pay scale of Rs.5500-9000 with all consequential benefits.

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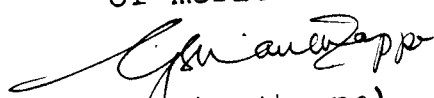
3. The brief facts of the case are that the applicant was initially appointed as a Clerk in the Railways on 28.9.1979. She was promoted to the post of Head Clerk . Thereafter the next promotion is to the post of Office Superintendent Grade-II in the scale of Rs.5500-9000, which is a selection post. The respondents have circulated the post of Office Superintendent Grade-II on 21.3.2002. The selection for the aforesaid post is required on the basis of a written test and viva voce. According to the applicant she has qualified the written test and has also done very well in the viva voce but her name has not been included in the select panel for the post of Office Superintendent Gr.II. She has also stated that her performance in the written test as well as in the viva voce was better than that of respondents 5 & 6. Still she has been ignored for promotion to the post of Office Superintendent Grade-II. Aggrieved by this she has filed this Original Application for claiming the aforesaid reliefs.

4. The respondents in their reply have stated that a notification for selection and to form a panel of 20 candidates (16 General, 2 SC & 2 ST) for the post of Office Superintendent Grade-II in the scale of Rs.5500-9000 in Electrical (non-personnel) Department was issued by the respondents on 21.3.2002. 60 candidates, including the applicant, were called for written test held on 6.4.2002. As many as 25 candidates including the applicant could qualify the written test and accordingly they were called for viva voce which was held on 19.8.2002 and 3.9.2002. As a result of written test and viva voce, a provisional panel of 17 candidates (14 General, 2 SC & 1 ST) was formed and declared on 13.9.2002. As the applicant did not perform well in the viva voce and could not secure the minimum qualifying marks required for empanelment, as such her name was not included in the panel of successful candidates as declared on 13.9.2002. According to the respondents, the selection has been conducted as per the rules contained in IREM, 1989 Edition and no procedural lacuna has been committed while conducting the selection.

It has also been submitted by the respondents that while an incumbent has the right to be considered for promotion, he has no right to be selected as the same depends on the performance of particular individual. Therefore, the promotion to a post cannot be claimed as a matter of right. Since the applicant could not secure the qualifying marks in the viva voce, her name could not be included in the select panel. The respondents have, therefore, submitted that this O.A. is liable to be dismissed having without any merits.

5. Heard the learned counsel for the respondents. The learned counsel for the respondents has submitted that the applicant has qualified in the written test and, therefore, she was asked to appear in the viva voce, however, her performance in the viva voce was not up to the mark. Therefore, she could not be finally selected and her name was not placed in the select panel. He has also produced the original proceedings of the selection for the post of Office Superintendent Grade-II. We have carefully perused the said selection proceedings. From the proceedings we find that the applicant had secured 21 marks in the written test, however, she could secure only 8 marks in the viva voce. She could only secure 54.67 per cent marks in over all performance. Since the applicant could not secure the minimum qualifying marks, of 60% of the aggregate, her name could not be included in the panel of successful candidates. Therefore, the action of the respondents ^{is} ~~are~~ justified in not including her name in the select panel. We also find that the private respondents 5 & 6 have secured more than 60% marks and, therefore, their names have rightly been included in the select panel.

6. For the reasons recorded above, the OA is bereft of merits and is accordingly rejected. No costs.



(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

Final
on
17-12-03

पूजांकल से ओ/का.....जबलपुर, दि.....
वर्तमान में अर्जित किया.....
(1) अर्जित, जय प्रयासालय वार एग्जामिनेशन, जबलपुर
(2) अर्जित, जय प्रयासालय वार एग्जामिनेशन, जबलपुर के काउंसल MK Verma, Adv.
(3) अर्जित, जय प्रयासालय वार एग्जामिनेशन, जबलपुर के काउंसल AB Shrivastava, Adv.
(4) अर्जित, जय प्रयासालय वार एग्जामिनेशन, जबलपुर के काउंसल
सुधु न ही जय प्रयासालय वार एग्जामिनेशन के काउंसल के काउंसल


MK Verma, Adv.