

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, INDORE

O.A.NO.555/2000

Thursday, this the 20th day of February, 03

Hon'ble Shri Justice N.N. Singh, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

S.L. Borasi, Jr. Electrical Engineer (I)
Western Railway, Ratlam MP

(Shri K.C.Raikwar, Advocate) ..Applicant

Versus

Union of India & Others
Represented by

1. General Manager, Western Railway,
Churchgate, Mumbai
2. Divisional Rail Manager,
Do batti, Ratlam (MP)

(By Shri S.P. Sinha, Advocate) ..Respondents

O R D E R (ORAL)

Shri Govindan S. Tampi:

The applicant, a scheduled caste candidate, working as JEE (I) Electrical Wing in W.R. Ratlam, participated in the selection process held on 2.6.1999 for promotion to the post of Sectional Engineer. He was one of the two candidates declared ^{having} passed with more than 700 marks and his name was included in the panel as a general category candidate. However, his name was deleted from the panel without giving him any opportunity for hearing. Once the candidate ^{was} declared successful deletion

of his name without affording him an opportunity was illegal. In the re-selection order for the same post, the name of the applicant was at Sl.No.3. The respondents were wrong in preparing fresh list of eligible candidates without specifically considering and declaring the applicant as ineligible. OA-188/2000 filed by some unsuccessful candidates before this Bench, impleading also the applicant as one of the respondents, was disposed of by this Tribunal with directions to consider case of those persons as well and to give them promotion if they were fit. At the same time, it was indicated their promotion shall be subject to availability of vacancies for such selection and without any claim for seniority over those selected earlier. Still, the respondents have not done the needful leading to the filing of this OA.

2. Among the grounds, which the applicant raises before the Tribunal are that:

- i) the action of the Department was illegal and arbitrary,
- ii) the panel once finalised cannot be treated as null and void,
- iii) holding of a fresh selection cannot take away his right, his having passed it with very high marks,
- iv) the applicant's name had not been ordered to be deleted by the Tribunal,
- v) the jealousy of general category candidates was leading to the difficult situation for the applicant and others, like him; and

vi) holding of fresh selection was totally improper

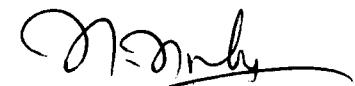
3. Shri S.P. Sinha, learned counsel appearing for the respondents stated in reiteration of the respondents' pleas that the post of Section Engineer was a selection post having both written and viva voce components. In July, 1999, the selection for three posts of Section Engineer (2 in the general category and 1 in SC) were to be so filled. 6 general candidates and 3 SC candidates were to be called but due to availability, only 2 SC candidates, including the applicant, who was the junior SC candidate, were called. Following the selection, the senior SC candidate M.K. Malviya was empanelled but by mistake, as the applicant had passed with general standard he was placed in the panel for general candidates, which could not have been done, keeping his relative position in the seniority list. He had been wrongly placed at the Sl.No.3 in the standby list but the same had to be rectified as it was found that he has lost his seniority on account of his coming to the Division on mutual exchange basis and he could have been assigned the seniority position. In view of the above, it is clear that the respondents had not committed any error in not empanelling the applicant against the general category candidates. OA, therefore, should fail is what the respondents pointed out.

4. We have carefully considered the matter. The undisputed facts in this case are that out of three posts of Section Engineer, which were to be filled up, 2 were meant to be filled by general category candidates and the third by a candidate from the SC category. The applicant's case

came up for consideration against the seat meant for SC category, on account of reservation, but he was indeed junior to another SC candidate, who was senior to the applicant and who was accordingly adjusted in the promotion post. Only on account of a mistake, the respondents had placed the applicant at No.3. Therefore, the action of the respondents in denying the applicant promotion against the general category ~~candidate~~ was not incorrect, as the applicant could not have been considered against those posts and his claim could only be confined to the post meant for SC category candidate, his relative seniority being low. Insistence by the learned counsel for the applicant that the applicant, by his indigent merit, had deserved to be ~~post~~ against the vacancy for general category as no basis whatsoever as his case for consideration itself came only because of his being from SC category. Further, he was the junior of the two SC candidates called for selection on the basis of reservation policy and, therefore, he did not have any claim for the post meant for the general category candidate. Respondents have correctly declined to entertain the claim of the applicant and their action cannot be called in question.

5. In the above view of the matter the OA fails and is accordingly dismissed. No costs.

(Govindan S. Tampli)
Member (A)
/sunil/


(N.N. Singh)
Vice Chairman (J)

पुस्तकालय से ऑफिसर..... जलतपुर, दि.....

(1) ~~.....~~
(2) ~~.....~~
(3) ~~.....~~
(4) ~~.....~~

क्रमांक १०८०, Adel. Gnd.
क्रमांक ८०८०, Adel.

4/2/03

Issued
on 6.3.03
C/No 68

John Mastern