

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
CIRCUIT CAMP : INDORE

Original Application No.62 of 1999

Indore, this the 13th day of November, 2003

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

Budhiram s/o Shri Ram Yadav,  
aged 34 years, Gangman under Chief  
Permanent Inspector (South) Western  
Railway, Ratlam

- APPLICANT

(By Advocate - None)

Versus

~~Union~~ of India - Through

1. The General Manager, Western Railway,  
H.Qrs.Office,Churchgate-Mumbai-20.

2. The Divisional Rail Manager, Western Railway,  
Ratlam (M.P.).

3. The Senior Divisional Engineer (H.Q.)(Establishment)  
Divisional Office, Western Railway,Ratlam(MP)-RESPONDENTS

(By Advocate - Shri Y.I.Mehta, Sr.Advocate with  
Shri H.Y.Mehta)

O R D E R (Oral)

By M.P.Singh, Vice Chairman -

The applicant has filed this Original Application against the orders dated 13.11.1998(Annexure-A-1) and 20.1.1999 (Annexure-A-2) by which the name of the applicant was deleted from the final select list of Rail Mistry.

2. The brief facts of the case are that the applicant while working as a Group-D employee as a Gangman on regular basis under Chief Permanent <sup>way 2</sup> Inspector Sihore has applied for the post of Rail Mistry in the pay scale of Rs.4500-7000. In the notification it was clearly mentioned that those candidates who have passed the 10+2 examination with science and mathematics, and have put in three years' regular service are eligible for consideration for the aforesaid post. The applicant has participated in the selection and was selected for the aforesaid post. Later on, it was found from the documents/ certificates submitted by the applicant that he has not passed the 10+2 examination with science subject and apart from this he had also not put in three years

regular service as he was regularised in Group-D post only on 25.11.1997. Accordingly, the applicant was issued <sup>the impugned</sup> a show cause notice dated 13.11.1998(Annexure-A-1) before deleting his name. Thereafter, his name was removed from the panel vide impugned order dated 29.1.1999(Annexure-A-2). Hence the applicant has filed this Original Application seeking to quash the aforesaid show cause notice dated 13.11.1998 and the order dated 29.1.999 deleting his name from the panel.

3. We have perused the pleadings carefully and heard the learned counsel for the respondents.

4. The learned counsel for the respondents has submitted that Gangman & Keyman having passed 10+ 2 examination with science and mathematics, and have put in minimum of three years of regular service were eligible for the post of Rail Mistry. The applicant was not possessing the above qualifications and accordingly he was given a notice before removing his name from the select panel. He has also submitted that the reliance placed by the applicant on Annexure-A-24 is also misconceived as that letter was issued in different context by respondent no.2 whereas the present issue has to be determined with reference to the guidelines issued by the Railway Board contained in Annexure-A-11 and by no stretch of imagination the same can be interpreted with the help of Annexure-A-24.

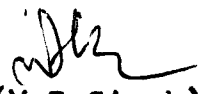
5. As none was present on behalf of the applicant we are deciding this OA, in the absence of the applicant, by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987 after hearing the learned counsel for the respondents and perusing the pleadings available on record.

6. After a careful consideration of the pleadings and other relevant papers placed before us we find that the short issue involved in this case is as to whether the applicant was eligible for his consideration for the post of Rail Mistry in terms of the notification/recruitment rules for the said post. It is not in dispute that the applicant did not possess the requisite educational qualification i.e. he did not pass the 10+2 examination

with science. It is clear from Annexure-A-22 that he passed the High School Examination in the year 1979 with Hindi, English, Sanskrit-D, General Maths & Civics subjects. Thus, he has not passed the said examination with science subject as is required under the rules. Moreover, he had also not put in three years regular service in the grade of Gangman as required under the rules, as he was regularised vide order dated 13.11.1997 (Annexure-A-9). Since the applicant did not possess the requisite qualifications required for the post of Rail Mistry under the prescribed rules, he cannot be appointed against the said post. The Hon'ble Supreme Court in the case of Yogesh Kumar and others Vs. Govt. of NCT Delhi and others has held that "recruitment to public services should be made strictly in accordance with the terms of advertisement and recruitment rules, if any. Deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post. Their Lordships have further observed that "it is open to the recruiting authorities to evolve a policy of recruitment and to decide the source from which the recruitment is to be made".

7. In view of the above, this OA Being bereft of merits is dismissed, however, without any order as to costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

rkv.

*Filed*  
*18/11*

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सूचना एवं प्रचारक कार्यवाही हेतु

*QC Gupta, Adls*  
*PI Malhotra, Adls*  
*18.11.03*