

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 692 of 1999  
Original Application No. 693 of 1999

Jabalpur, this the 3rd day of February, 2004

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

1. Original Application No. 692 of 1999 -

Rajkumar Vaidya, S/o. Shri  
J.S. Vaidya, 38 years, Section  
Engineer (Adhoc), Railway Spring  
Kharkhana, Sithouli, Gwalior (MP). ... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through  
its Secretary, Ministry of  
Railway, Railway Board,  
New Delhi.

2. General Manager, Central  
Railways, Mumbai CST, Mumbai.

3. Chief Workshop Manager,  
Railway Spring Kharkhan,  
Sithouli, Gwalior.

4. Shri G. C. Agnihotri, Section  
Engineer, Rail Spring Karkhana,  
Sithauli, Gwalior (M.P.). ... Respondents

(By Advocate - Shri S.P. Sinha for official respondents,  
and Shri M.K. Verma for respondent No. 4)

2. Original Application No. 693 of 1999 -

Kedar Prabhakar Bhujang,  
S/o. Dr. P.S. Bhujang, aged  
about 34 years, Section Engineer,  
Rail Spring Karkhana, Sithauli,  
Gwalior (M.P.). ... Applicant

(By Advocate - Shri S. Paul)

V e r s u s

1. Union of India, through the  
Secretary, Ministry of Railway,  
Railway Board, Rail Bhavan,  
New Delhi.

2. General Manager, Central  
Railway, Mumbai CST.

3. Chief Workshop Manager, Rail Spring Kharkhana, Sithauli, Gwalior (M.P.).

... Respondents

(By Advocate Shri S.P. Sinha)

Common O R D E R (Oral)

By M.P. Singh, Vice Chairman -

Since the issue involved is common and the facts of both the Original Applications are identical, we proceed to dispose of both the OAs by passing a common order.

2. By filing these Original Applications the applicants have claimed the reliefs to set aside the impugned order dated 05.12.1998 (Annexure A-1 in both the OAs) and grant all consequential benefits, as if the impugned order was never passed.

3. The brief facts of the case as stated by the applicants are that the respondents have issued a circular dated 01.04.1998 inviting applications from the eligible candidates to appear in the written examination for making three selection for the posts of Section Engineer in the pay scale of Rs. 6500-10500/-. Subsequently this circular has been modified by issuing an order dated 09.07.1998 providing that there are only two posts of Section Engineer. The written test has been held for the said post on 15.06.1998. Six persons appeared in the written test and out of them four were called for interview/viva-voce. The viva-voce was held on 22.07.1998. As per the rules, the candidates who secure 60% in the written as well as in the viva-voce will be selected for appointment to the said post. All the four candidates have secured more than 60%



marks in the written test as well as in the viva-voce. Since there were only two vacancies, two senior most candidates namely Shri S.K. Saxena and Shri G. C. Agnihotri were placed in the select panel and were appointed as Section Engineer. Both the applicants were at serial No. 3 and 4 in the seniority of Section Engineers selected. The applicants could not be placed in the <sup>select</sup> panel and appointed because of non-availability of vacancies. They were, however, promoted on adhoc basis vide order dated 15.10.1998, and vide order dated 05.12.1998 both the applicants were reverted from the post of Section Engineer to the post of Junior Engineer. Aggrieved by this the applicants have filed these Original Applications seeking the aforesaid reliefs.

4. Heard the learned counsel for the parties and perused the records.

5. The learned counsel for the applicants has stated that he has amended OA No. 692/1999 by impleading Shri G.C. Agnihotri as respondent No. 4. He further states that he will not press any relief against the respondent No. 4 in OA No. 692/1999.

6. The learned counsel for the applicants submitted that the applicants were selected through a written examination as well as by viva voce. Therefore the appointment of both the applicants on adhoc basis is not justified. He has also submitted that while circulating for selection to the posts the two posts of Section Engineer, the respondents nowhere mentioned that these posts will be filled up on

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adhoc basis. Normally the adhoc promotions are made on the basis of seniority and not through selection on the basis of written examination as well as viva-voce. He has also submitted that the respondents were directed by this Tribunal to bring the selection proceeding in relation to the selection of the Section Engineers. The learned counsel for the applicants stated that in case the applicants have not ~~been~~ qualified in the selection, then they have no case for appointment to the higher post of Section Engineer. He has also drawn our attention to page 44 para 3 (in OA No. 693/1999) of the reply to the rejoinder. In this reply the respondents have stated that the applicants have passed the written test but could not qualify in viva-voce. Thus they could not be placed in the panel for appointment to the post of Section Engineer.

7. On the other hand the learned counsel for the respondents states that the applicants have qualified in the written test, but since there were only two vacancies, two persons who were senior to both the applicants were placed in the panel and were appointed as Section Engineer. He further states that para 3 of the reply to the rejoinder filed by him stating that the applicants could not qualify in the viva-voce is a typographical mistake. Similarly the statement made in para 3 of the reply to the additional statement that it is denied that the applicants have qualified in viva-voce and selected as Section Engineer, is also a typographical mistake.

8. We have very carefully considered the rival contentions of both the parties and have also perused the



original selection proceedings produced by the learned counsel for the respondents. We find that four candidates including both the applicants have qualified in the written test. They have also qualified in the viva-voce test and have been selected for the post. Since there were only 2 posts of Section Engineer, the two senior most persons Shri S.K. Saxena and Shri G.C. Agnihotri have been placed in the panel and have been appointed to the post of Section Engineer. Para 219 (i) (ii) and (j) provides as under :

"(i) (ii) The Selection Board should call for viva-voce test all candidates who secure not less than 60% marks in the written test. The final panel should be drawn up on the basis of marks obtained in the written and viva-voce test in accordance with the procedure for filing selection posts.

(j) The names of selected candidates should be arranged in order of seniority but those securing a total of more than 80% marks will be classed as out-standing and placed in the panel appropriately in order of their seniority allowing them to supersede not more than 50% of total field of eligibility."

On perusal of the selection proceedings we find that both the applicants have secured more than 60% of marks and therefore they have been selected. But as per the provisions of Para 219 of IREM the panel has to be arranged in the order of seniority in the present grade. As both the applicants have not secured more than 80% of marks, they as could not be classified/outstanding as required under the rules. Therefore the respondents have rightly placed Shri S.K. Saxena and Shri G.C. Agnihotri in the select panel and have appointed as Section Engineer.

8.1. However as both the applicants were appointed on the post of Section Engineer on 15.10.1998 on adhoc basis

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and are still continuing in the higher grade by virtue of interim order, they should be replaced and reverted to the lower post as and when selected candidates are available and are appointed on regular basis to the post of Section Engineer.

9. With these observations the Original Applications are disposed of. The stay order stands vacated. No costs.

  
(G. Shanthappa)  
Judicial Member

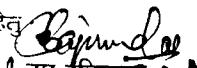
  
(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/अ.वा. .... गोदावरी, दि. ....  
प्राप्तिकर्ता: डॉ. विजय कुमार, गोदावरी

(1) सर्वोच्च न्यायालय विभाग, गोदावरी  
(2) अधिकारी विभाग, गोदावरी  
(3) प्रत्यक्षी विभाग, गोदावरी  
(4) विवरण, गोदावरी, गोदावरी

S. Paul  
S.P. Sinha  
MLA Varanasi

  
उप संसदीय दल

  
Tuseel  
19-2-04