

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 867 of 2000

Jabalpur, this the 4th day of February, 2004

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

Manoj Kumar Sharma,
Aged about 37 years,
Son of Shri D.P. Sharma,
By Occupation service, Train
Ticket examiner, Central Railway,
Jabalpur, Resident of RB2, 241/4,
Behind Railway Hospital, Jabalpur,
District Jabalpur M.P.

... Applicant

(By Advocate - Shri Harshit Patel for Shri S.C. Sharma)

V e r s u s

1. Union of India, through the Secretary, Railway Board, Ministry of Railways, Govt. of India, Rail Bhawan, New Delhi.
2. General Manager, Central Railways, Chhatrapati Shivaji Terminus, Mumbai (MS).
3. Divisional Railway Manager, Central Railway, Jabalpur Division, Jabalpur M.P.
4. Divisional Personnel Officer, Jabalpur Division, Jabalpur M.P.
5. Shri M.B. Fahim, Head Train Ticket Examiner, Jabalpur Division, Central Railways, Jabalpur M.P. ... Respondents

(By Advocate - Shri S.P. Sinha for the official respondents)

O R D E R

By G. Shanthappa, Judicial Member -

The said Original Application is filed seeking the relief to quash the order dated 22.09.2000 (Annexure A-5) to (sic-5) the extent it promotes the respondent No. 3/ being void, illegal and opposed to law, to declare that the applicant is entitled for promotion to the post of head ticket collector/ head TTE on the basis of his performance and excellent service record and because he falls within the 18 vacancies being at

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serial No. 20 and on excluding from the panel the respondent (sic-5).

No. 3/ He sought further reliefs for direction to the official respondents to promote the applicant on the post of HTC/HTE from 22.09.2000 with all consequential service benefits as per rules and to declare that non-promotion of the applicant, in the facts and circumstances of the case is illegal, arbitrary, malafide, discriminatory and opposed to provisions of the Constitution of India.

2. The brief facts of the case as stated by the applicant are that the applicant was appointed in the year 1985 and is presently working on the post of Train Ticket Examiner in Jabalpur Division, Jabalpur, Central Railways. During his service career of 15 years he never faced any departmental enquiry or show cause notice at any point of time. His services were unblemished. ~~was issued~~ Circular dated 14.07.2000/for the purposes of holding written test as well as viva voce to formulate a panel of candidates for grant of promotion to the post of Head Ticket Examiner/Head Ticket Collector in the grade of Rs. 5000-8000/- in the Commercial Department, the written test was held on 05.08.2000 and the successful candidates in the written test were required to appear in the viva ^{with} voce. The respondents have issued ^{and} the circular dated 14.07.2000/a list of eligible staff for purposes of selection for promotion to the post of Head Train Ticket Examiner/Head Ticket Collector. ^{In view of} ^{the} said circular 54 employees were eligible to appear in the examination. Three employees were eligible from the category of Scheduled Tribe and there was a list of seven employees in stand by in the general category. The applicant also appeared in the written examination which was held on 05.08.2000 and 12.08.2000 and since he did well in the examination, he was declared successful. The viva-voce



was held on 30.08.2000 in respect of those candidates who were declared successful in the written examination. Vide order dated 17.08.2000 a list of 18 successful candidates in general category and one candidate in ST category was issued. Among the selected candidates one Shri Rajan Pillai who was awarded punishment of withholding of increment for a period of two years vide order dated 27.04.1999, was also included in the panel. Also one Shri Manoj Kumar Pandey who was awarded punishment of withholding of one increment for one year by order dated 01.08.2000 was also included in the panel and the respondent No. 5 Shri M.B. Fahim who was facing departmental and enquiry^{efc} was found guilty was also included in the panel. When the three such persons were included in the panel, the applicant made a representation to the authorities and the authorities excluded the names of Shri Rajan Pillai and Shri Manoj Kumar Pandey realising their mistake. If these names are removed the chance of selection of the applicant can be considered. Admittedly the applicant is at serial No. 20. As the applicant could not be selected under the selection process he has approached this Tribunal for quashing of the order dated 22.09.2000 (Annexure A-5).

3. Per contra the respondents have filed their reply stating that there is no illegality or irregularity while passing the order. The specific contention is that the applicant was qualified in the selection but he was junior than 18 persons who qualified in the selection and hence there was no question of promoting him. The allegations of extending undue and illegal favour to other employees are denied. The 18 general posts notified for selection included anticipated vacancies also. The applicant secured passing marks in the written test and hence was called for viva-voce. In the

written test out of 54 general candidates, 23 candidates qualified and were called for viva-voce test. The applicant was found suitable in the selection but being junior could not find place in the panel. While preparing the promotion orders the facts regarding pendency for major penalty and undergoing of punishment were verified as per procedure. Since Rajan Pillai and Manoj Kumar Pandey were found to be undergoing punishments, their names were not included in the promotion list. Since on the date of declaration of panel, M.B. Fahim was neither undergoing punishment nor any departmental enquiry was pending. Thus his name was included in the promotion order. The punishment of stoppage of increment was inflicted on him which is to be effective when the date of increment next would fall due, since his increment is due on 01.12.2000, it was deemed that he was not under punishment on 22.09.2000 and hence his name was included in the list of promotion order. It is further submitted that two persons were not excluded on the representation of the applicant but were excluded, since the applicants position is the 20th and the panel was to be prepared for 18 candidates, his name could not be included.

4. After submission of the reply the applicant has submitted a rejoinder stating that Shri M.B. Fahim was facing departmental enquiry and he has been punished by the Department. For this the applicant has not produced any document.

5. After hearing the either sides, perusal of the pleadings and documents, we decide the case finally.

6. The admitted facts are that the respondents have issued the notification for formation of a panel for the post of Head Ticket Examiner/Head Ticket Collector in the grade of

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Rs. 5000-8000/- in the commercial Department. A list of 18 successful candidates in the general category and one candidate in ST category was issued. The applicant was qualified in the said selection and his name was also considered. The written test was conducted for 54 employees and 23 employees were qualified and was called for viva-voce test. The case of the applicant is that the respondents have considered the cases of those persons who were facing order of punishment. It is a specific case of the respondents that after verifying the records Shri Rajan Pillai and Shri Manoj Kumar Pandey were found to be undergoing punishment and their names were not included in the promotion list. Excluding these two persons the list was prepared. On 22.09.2000 Shri M.B. Fahim was not undergoing any punishment, hence his name was included in the promotion order. After excluding those two persons the list was prepared, in which the applicant was at serial No. 20. Since the Department prepared the list of 18 candidates and the applicant was at serial No. 20, his case was not considered. The applicant has also urged that Shri M.B. Fahim was facing departmental enquiry and for which he has not produced any proof. Accordingly, we find that the applicant has failed to prove his case. Hence the Original Application is dismissed. No costs.

(G. Shanthappa)
Judicial Member

Singh
(M.P. Singh)
Vice Chairman

~~Received
1/2/09~~

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