

(12)

**THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR  
ORDER SHEET**

APPLICATION NO.: \_\_\_\_\_

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

OFFICES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

**22.05.2007**

**OA 174/2005**

Present : None for the parties.

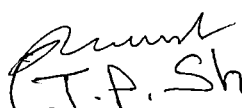
Written statement in this case has been filed. Rejoinder thereto is still awaited. The applicant has failed to file rejoinder despite last opportunity having been granted. The case is deemed to be ready for hearing. Let the matter be placed before the Hon'ble Bench for admission/hearing on 26.07.2007.

  
(GURMIT SINGH)  
DEPUTY REGISTRAR

akv

26.7.07  
Mr. P.V. Calla, Counsel for applicant  
Mr. Harna Singh, Proxy Counsel for  
Mr. V.S. Buryar, Counsel for respondents

Heard. The OA is disposed of  
by a separate order.

  
(J.P. Shukla)  
MLA

  
(Kuldip Singh)  
ve.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR.

Jaipur, the 26th day of July, 2007

ORIGINAL APPLICATION NO.174/2005

CORAM :

HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

Vishnu Kumar Gautam  
S/o Shri Sarnam Singh,  
R/o 76 L/B Type-II,  
B.G.Railway Colony,  
Sawai Madhopur.

... Applicant

( By Advocate : Shri P.V.Calla )

Versus

1. Union of India through  
General Manager,  
West Central Railway,  
Jabalpur (MP).
2. Divisional Railway Manager,  
West Central Railway,  
Kota.

... Respondents

( By Advocate : Shri Hawa Singh, proxy counsel for  
Shri V.S.Gurjar )

ORDER (ORAL)

*Shukla*  
PER HON'BLE MR.J.P.SHUKLA

The applicant is aggrieved by the order dated  
13.9.2004 (Ann.A/1), whereby result of the selection

for the post of Junior Engineer Gr.II under LDCE 25% quota has been declared.

2. Brief facts of the case, as stated by the applicant, are that while working as Technician Gr.II the applicant appeared in the Limited Departmental Competitive Examination (LDCE) for promotion to the post of Junior Engineer Gr.II scale Rs.5000-8000. The panel in the LDCE is prepared on the basis of marks assigned including that of the written test in accordance with the prescribed procedure and that seniority is not the only criteria. Under the provisions of Para-219 of the IREM Vol-I, the final panel is drawn on the basis of seniority in the feeder grade. The respondents adopted the procedure under Para-219 of IREM even though the appointments/promotions were to be given through LDCE and declared the panel of successful candidates vide order dated 13.9.2004 on the basis of seniority from amongst the candidates who secured the minimum passing marks. The applicant came to know about the same when he met the competent authority to whom he approached when he found that the final panel contains only the name of Technician Gr.I and that too placed in merit position in accordance with their seniority. None of the eligible person from lower grade was selected nor the merit list reflected any junior person placed at higher position. Thus, the respondents committed serious error and the panel declared on 13.9.2004 was illegal.

2. The respondents contested the OA and have filed their reply. It was submitted that the selection through viva-voce has been eliminated vide letter dated 7.8.2003, passed by the Railway Board, and it was directed that selection would be made through written test and on the basis of service record. Thus, the adopted selection procedure was constituted by a duly competent authority and hence the action of the respondents while making selection under the selection procedure as prescribed vide

Railway Board's letter dated 7.8.2003 is justified and sustainable under the law.

4. Heard the learned counsel for the parties. Learned counsel for the applicant argued that the impugned order dated 13.9.2004 is illegal as the final list has been prepared strictly on the basis of seniority and not as per the marks obtained in the LDCE. The applicant has been informed by the authorities that although he has obtained higher marks than the selected candidates but he being junior than the empanelled persons, his name was not empanelled. The respondents have also not followed the correct criteria, otherwise the applicant would have definitely been empanelled.

5. Learned counsel for the respondents agreed that the panel has been prepared strictly on the basis of seniority for those who had secured qualifying marks.

6. The Tribunal had gone through the original confidential record of the selection proceedings and verified the criteria followed in finalizing the panel for selection for the post of Junior Engineer Gr.II (Electrical) scale Rs.5000-8000 under LDCE quota and it is observed that the panel has been finalized based on the seniority ignoring merit based on the marks obtained. It is also observed that as per notification for selection, issued by the respondents vide Ann.A/4 dated 4.3.2004, for 25% LDCE quota, there was no mention of any criteria to be followed for the final empanelment.

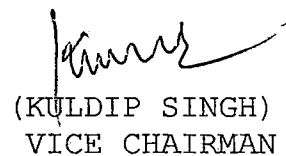
7. As per the procedure for Limited Departmental Competitive Examination for Class-II (Group-B), it is clearly specified that there will be no grading of successful candidates as 'Outstanding', 'Very Good' etc. Their names will be arranged in order of merit on the basis of the total marks obtained by each of the candidates.

*Annul*

8. As per the procedure for holding LDCE in the category of OS Gr.II, the panel of successful candidates is to be finalized in order of the merit. Accordingly, this Tribunal finds that the action of the respondents by adopting a criteria, which is not in conformity with the LDCE procedure and not specified in the notification for holding the selection is arbitrary and not justified at all.

9. Accordingly, the OA is allowed and the impugned orders dated 13.9.2004 (Ann.A/1) and dated 16.9.2004 (Ann.A/2) are quashed and set aside and the respondents are directed to recast the panel of the successful candidates on the basis of total marks obtained in the LDCE and to promote the applicant to the post of Junior Engineer Gr.II in case he finds place in the panel, alongwith all consequential benefits flowing out of quashing of the impugned orders. No costs.

  
(J.P. SHUKLA)  
MEMBER (A)

  
(KULDIP SINGH)  
VICE CHAIRMAN

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