

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA.No.107/2006.

Jaipur, this the 2nd day of November, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

Praveen Singh Rajawat
S/o Shri Ramesh Singh Rajawat
R/o House No.A/28, Akashwani Colony,
Kota.

... Applicant.

By Advocate : Shri C. B. Sharma

Vs.

1. Union of India
Through General Manager,
West Central Railway,
Jabalpur (M.P.)
2. Divisional Railway Manager,
West Central Railway,
Kota Division, Kota.
3. Senior Divisional Operating Manager,
West Central Railway,
Kota Division,
Kota.

... Respondents.

By Advocate : Shri Anupam Agarwal

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying that the respondents be directed to cancel the examination to be held on 18.03.2006 by quashing the letter dated 13.3.2006 (Annexure A/1) along with eligibility list dated 31.05.2005 (Annexure A/2) with all consequential benefits and the respondents may be further directed to declare the result of the examination to be conducted on 4.2.2006 for the post of Goods Guard in the scale of Rs.4500-7000/-.

2. In sums and substance the case of the applicant in this OA is that the selection for 36 posts of Goods Guard in the scale of Rs.4500-7000/- along with eligibility list were notified vide order dated 24.11.2005 (Annexure A/5), in which the category of Switchman, Train Clerk, viz. Sahayak guard etc. were made eligible. The applicant has placed copy of notification dated 24.11.2005 (Annexure A/5) as well as eligibility list dated 27.12.2005 (Annexure A/6) on record. Vide eligibility list Annexure A/6, the category of applicant including the category of Switchman amongst Sahayak Guard/Assistant Guard, Shunter Zamadar etc. were made eligible to appear. The grievance of the applicant is that instead of declaring the result of selection which was conducted by the respondents for 36 posts of Goods Guard, respondents have proceeded to conduct examination again for the post of Goods guard vide impugned order dated 13.3.2006 (Annexure A/1) as per eligibility list Annexure A/2 in which only the category of Switchman was made eligible which action of the respondents was contrary to the Railway Board letter as the post of Goods Guard has to be filled from the various categories of ranker quota and such selection cannot be confined only to the Switchman.

3. When the matter was listed for admission on 17.03.2006, this Tribunal stayed the operation of the impugned order dated 13.3.2006 (Annexure A/1) and the

respondents were restrained to conduct the examination for the post of Head Clerk to be held on 18.3.2006 as notified vide Annexure A/1. Thereafter the respondents realized that they could not have issued the notification dated 13.3.2006 (Annexure A/1) for the same posts for which selection has already been conducted and concluded but the result was not declared. In order to, defeat the genuine claim of the applicant, respondents issued a notification dated 25.4.2006 thereby declaring the result of the selection for the post of Goods Guard conducted vide eligibility list dated 27.12.2005 and only 5 persons were declared successful. This notification was placed on record by the respondents, when the matter was listed on 8.5.2006 and it was argued that the grievance of the applicant does not survives as the result of the examination conducted pursuant to Annexure A/5 has been declared and the applicant has been failed in the said examination. Since the second grievance of the applicant regarding the fact that vide impugned order dated 31.5.2005 (Annexure A/2) which is eligibility list only Switchmans have been made eligible to appear in the selection test for the post of Goods Guard as notified vide Annexure A/1 thereby ignoring the other categories still survives, Respondents were directed to file reply.

4. Respondents have filed reply.

5. At the outset, it may be stated that the respondents have tried to justify their unjustified action by taking plea that it was permissible for the respondents to conduct selection test for the post of Goods Guard only confining ~~up~~^{to} to the category of Switchman who have been declared surplus and applicant has got no right to be considered for the post of Goods Guard. Such a stand taken by the respondents in the reply is highly deplorable. In fact the respondents also subsequently rectified their action by issuing another notification dated 10.7.2006 (Annexure R/3) whereby 31 posts of Goods Guard have again been notified to be filled in from the eligible candidates in which all the categories from ranker quota including the category of the applicant as well as Switchman has been made eligible to appear in the selection test.


6. On the face of decision taken by the respondents to again notify 31 posts of Goods Guard whereby the selection was to be made from the categories of Train Clerk, Senior Guard, Switchman, Assistant Guard, Shunter Jamadar etc. it is not understood on what basis the respondents have taken contradictory stand in reply thereby justifying their action whereby only the category of Switchman was made eligible for selection to the post of Goods Guard vide impugned order Annexure A/1. In any case the facts remain that subsequently the respondents have notified the remaining 31 vacancies of Goods Guard

excluding 5 vacancies as 5 persons out of 36 vacancies notified vide Annexure A/5 have qualified the test/selection for the post of Goods Guard. As such, the selection to be conducted for the post of Goods Guard solely from Switchman category as notified vide Annexure A/1 cannot be allowed to stand in view of subsequent notification Annexure R/3 which has been placed on record by the official respondent with their reply. In any case the posts of the Goods Guards have to be filled in from various categories of the Rankers quota as per the Railway Board decision. On the premise that the Switchman has been declared surplus, as such they have to be given alternative employment, the right of consideration of other categories cannot be defeated and such action of the respondents is highly arbitrary. That apart, giving alternative employment to surplus persons by no stretch of imagination can mean that the redeployed person has to be absorbed against the promotional posts. At the most surplus person has right of absorption and such persons have to be absorbed only in the same grade or equivalent grade not against promotional post which has to be filled in accordance with the instructions/decision taken by the Railway Board as per letter dated 5.6.98 in which it has been stated that the post of Goods Guards in the scale of Rs.4500-7000/- has to be filled by 60% by general selection, 15% by LDCE and 25 % by Railway Recruitment Board and from various categories of Rankers quota as stated above.

7. Thus, we are of the firm view that notification dated 13.3.2006 along with eligibility list dated 31.5.2005 (Annexure A/2) whereby only the surplus Switchman has been made eligible for the post of Goods Guard are liable to be quashed, which are accordingly quashed. The respondents will proceed with the selection of Goods Guard as per notification dated 10.7.2006 (Annexure R/3). Accordingly, the OA is disposed of with no order as to costs.

8. In view of the order passed in OA, no order is required to be passed in MA No.78/2006, filed for vacation of interim stay, the same stands disposed of accordingly.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C.