

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the nd 22 day November, 2010

ORIGINAL APPLICATION No.480/2006

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMINISTRATIVE)

Praveen Singh Rajawat
s/o Shri Ramesh Singh Rajawat,
r/o H.No.A/28, Akashwani Colony,
Kota and presently working as Senior Trains Clerk
under Senior Divisional Operating Manager,
West Central Railway,
Kota Division,
Kota.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through General Manager,
West Central Zone,
West Central Railway,
Jabalpur.
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)



ORDER

Per Hon'ble Mr. M.L.Chauhan, M(J)

The applicant has filed this OA thereby praying for the following reliefs:-

- i) That the entire record relating to the case be called for and after perusing the same respondents may be directed to place all the officials to the cadre of Trains Clerk declared successful in the examination vide letter dated 17/11/2006 (Annexure-A/2) taking into consideration of seniority as well as initial date of appointment by quashing letter dated 11/12/2006 (Annexure-A/1) with all consequential benefits.
- ii) That the respondents be further directed to include vacant post became available in the month of August, 2006 due to promotion of officials from the cadre of Goods Guard to the cadre of senior Goods Guard for the purpose of preparation of panel as per result Annexure A/2.
- iii) Any other order/directions of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- iv) That the costs of this application may be awarded."

2. When the matter was listed on 14.12.2006, this Tribunal while issuing notices passed the following order:-

"Heard. Issue notices to the respondents for filing their reply within four weeks.

The sum and substance of this case is that there were 31 post of Goods Guard for which selection was to be conducted. Learned counsel for the applicant invited my attention to the order dated 17.11.2006 (Ann.A/2), whereby 42 candidates have qualified. Grievance of the applicant is that by impugned order dated 11.12.2006 (Anne.A/1) only 23 candidates have been empanelled in which all the 11 persons belonging to the category of Switchman, who have passed the examination vide Ann.A/2, have been empanelled, whereas in the



category of applicant i.e. Trains Clerk, 18 candidates have been qualified, whereas two candidates have been empanelled.

The respondents are directed to make this point clear in the reply to be filed by them and indicate the procedure which they have followed while empanelling the persons vide order dated 11.12.2006 (Ann.A/1). The respondents shall annex copy of the policy decision/procedure, if any, alongwith the reply, on the basis of which the impugned panel dated 11.12.2006 has been prepared.

In view of the facts, as stated above, any further appointment/promotion to the post of Goods Guard shall be subject to the final outcome of this OA.

Let copy of this order be sent to the respondents alongwith the notices. Let the matter be listed on 18.1.2007."

3. Pursuant to the directions given by this Tribunal, the respondents have filed reply. The facts as stated above have not been disputed. It is stated that in all 23 persons were placed in the panel, out of which 21 candidates belong to general category whereas name of the two SC candidates who were successful was included in the panel. It is further stated that only those persons were placed on the panel who qualify the selection test having due regard to seniority in terms of Railway Board letter dated 20.6.2003. The respondents have further stated that as per the above Railway Board letter, SC/ST candidates whose name find place in the select list within the number of unreserved vacancies are to be treated as selected on their own merit. The respondents have categorically stated that the panel was prepared strictly in accordance with the combined seniority of eligible categories appeared in the selection based upon equivalence accorded to them as per Railway Board

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circular dated 1.10.99. The respondents have placed a copy of circular dated 1.10.99 as Ann.R/2. The respondents have further stated that date of appointment have no relevancy. The respondents have also stated that the applicant has got no right to be included in the panel as he was not senior-most to be placed in the panel.

4. We have heard the learned counsel for the parties and gone through the material placed on record.

5. Admittedly, out of 31 posts, 21 posts were to be filled in from general category candidates. It is also not in dispute that applicant who has qualified the selection test, his case for promotion has to be considered against the vacancy meant for general category candidate. It is also not in dispute that selection has to be made from different categories such as Trains Clerk, Trains Guard, Switchman, Assistant Guard, Shunter, Jamadar etc. having different seniority units. It is also not in dispute that more persons than the vacancy meant for general category qualified the written test. Thus, only 21 persons from general category were to be placed in the panel against total notified 31 posts of Goods Guard belonging to general/SC category. It is also not in dispute that in terms of policy decision, only name of 21 persons have to be placed in the panel based upon seniority. The question which requires our consideration is, how the names of qualified persons have to be placed in the panel, where persons belong to different categories/seniority units. According to the applicant, the category of Trains Clerk should

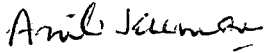


have been placed above in the panel prepared by combined examination whereas according to the respondents, names in the panel have been placed on the basis of combined seniority list of all eligible categories, who appeared in the selection based upon equivalence accorded vide circular dated 1.10.99. In other words, according to the respondents, the relevant criteria for placing the qualified candidates in the panel is, firstly placing the running staff in the stationary grade in terms of RBE No.254/99 (Ann.R/2) and then determine inter-se seniority of the staff of running category as well as stationary staff on the basis of the entry in the particular grade.

6. The applicant has neither filed any rejoinder nor has made any specific challenge to the criteria evolved by the respondents based upon equivalence accorded vide Railway Board circular RBE No. 254/99 dated 1.10.99 being arbitrary or discriminatory. Further, the applicant has also not challenged validity of RBE No.254/99 which deals with comparison of grade of running staff with those of stationary staff for the purpose of promotion/selection. Thus in the absence of any such challenge to RBE No.254/99 whereby scale of pay applicable to running staff has been given higher equivalence to the grades in respect of stationary posts for the purpose of selection/promotion, no relief can be granted to the applicant till specific challenge is made to Railway Board Circular No. 254/99 and also to the criteria adopted by the respondents for the purpose of determining inter-se seniority between different seniority units based upon entry in the equivalent scale of stationary posts.

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7. For the foregoing reasons, the OA is bereft of merit, which is accordingly dismissed with no order as to costs.


(ANIL KUMAR)
Admv. Member


(M.L. CHAUHAN)
Judl. Member

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