

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

JAIPUR, this the 11<sup>th</sup> day November, 2010

**ORIGINAL APPLICATION No.54/2009**

CORAM:

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

Jagdish Meena  
s/o late Shri Chhagan Lal,  
working as Office Superintendent-I,  
Carriage Estb-III in the scale  
Rs. 6500-10500 r/o Gadi Maliyan,  
Johns Ganj, Behind Shop of  
Shri Nauratmal Master,  
Ajmer.

.. Applicant

(By Advocate: Applicant present in person)

Versus

1. Union of India  
through General Manager  
North Western Railway,  
Hasanpura Road,  
Jaipur
2. Chief Works Manager,  
North Western Railway,  
Ajmer Workshop,  
Ajmer.

.. 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) The respondents may be directed by an appropriate order, writ or directions to include the name of the applicant in the list of qualified candidates in the written examination and ultimately may be placed in panel on account of the said selection.
- ii) Any other directions and orders which is deems proper in the facts and circumstances of the case may kindly be allowed to the applicant.

2. Briefly stated, facts of the case are that the respondents issued a notification dated 8.10.2007 (Ann.A/2) for selection to two posts of Chief Office Superintendent (COS) scale Rs. 7450-11500. Alongwith the notification, the respondents have also prepared eligibility list of six persons, whose name find mention in List-A and four persons were included in list-B. Name of the applicant find mention in List-A. Written examination was conducted and subsequently the respondents prepared a provisional panel in which name of one Shri Lal Singh Kharera, an SC candidate, has been included against the SC post as best among the failures. Feeling aggrieved by action of the respondents by not including name of the applicant in the panel, the applicant made a representation dated 10.11.2008. However, vide impugned order dated 22.12.2008, the applicant was informed that since he has filed OA before the Tribunal, as such, the matter will be decided after disposal of the OA. The applicant has made grievance against



this letter dated 22.12.2008 (Ann.A/1) and thus has filed this OA thereby praying for the aforesaid reliefs.

The main contention raised by the applicant in this OA is that the respondents have supplied answer sheets to the applicant, perusal of which shows that the applicant has obtained 58.5 % marks, and in case proper marking of questions has been made, in that eventuality, the applicant could have obtained  $58.5+6 = 64.5$  % marks and thus would have qualified the written examination and his name was required to be placed in the panel. It has been averred that the applicant would have obtained 6 more marks i.e. two marks in question No.5(x), two marks in question No. 6(v) and two marks in question No. 6(x). The applicant has also reproduced comparative chart of the answers given by the applicant and key, which thus reads:-

S. No.	Question	Exam held on 19.11.2007			Right Reply as per documents
		Q.No.	Applicant Answer	Key Shows	
1.	Central Government Office observe..... Holidays in a Calander year	5(x)	16+2=18	16	16+2=18 (A/9)
2.	When the salary is received through a pay authority it is essential each time to submit a life certificate	6(v)	False	True	
3.	Night duty	6(x)	False	True	False (A/10)

veq

3. Notice of this application was given to the respondents. The facts as stated above have not been disputed. The fact that name of Shri Lal Singh Kharera, an SC candidate working as OS-I has been included against future anticipated vacancy of COS for SC category on the basis of the best among the failures, is not disputed. The respondents have stated that since the applicant has not obtained 60% marks and secured only 58.5 marks, as such, he was rightly declared unsuccessful.

4. The applicant has filed rejoinder thereby reiterating the submissions made in the OA.

5. We have heard the applicant who is present in person and the learned counsel for the respondents.

6. From the material placed on record, it is evident that the selection process for filling up of two posts of COS was notified vide notification dated 8.10.2007 as amended vide letter dated 11.10.2007. Out of two posts, one post was vacant and other post was anticipated vacancy. The respondents have not prepared any panel so far one post of ST category was concerned whereas panel was prepared in respect of anticipated vacancy belonging to SC category. Thus, the question which requires our consideration is whether against one post of ST category name of the applicant could have been included in the panel and he should have been awarded additional six marks in three questions, as reproduced in the earlier part of the judgment, which questions according to the applicant, were answered by him correctly whereas the answers in the key was incorrect.

WJ

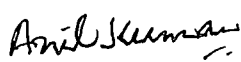
7. It may be stated here that the marks were awarded to all the persons who appeared in the selection on the basis of answers reflected in the key. Thus, in case the applicant has to be awarded additional marks for aforesaid questions, as contended by him, the benefit of such marking has also to be given to the other similarly situated persons.

8. Further, in exercise of power of judicial review, it is not permissible for us to substitute the findings given by the authorities unless it can be demonstratively held that the key shows in respect of three questions is palpably wrong and in that eventuality, the entire result has to be evaluated.

9. Be that as it may, without going into merit of the case, we are of the view that the matter can be disposed of at this stage with direction to the respondents to decide representation of the applicant dated 10.11.2008 by passing reasoned and speaking order.

10. Accordingly, the OA is disposed of at this stage, with direction to the Chief Works Manager (respondent No.2) to decide representation of the applicant dated 10.11.2008 by passing a reasoned and speaking order within a period of three months from today.

11. With these observations, the OA is disposed of with no order as to costs.

  
(ANIL KUMAR)  
Admv. Member

  
(M.L. CHAUHAN)  
Judl. Member

R/