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Central Administrative Tribunal
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH


22nd July, 2009


OA.84/2009
MA 202/2009

Present: Shri Shiv Kumar, counsel for applicant
Shri Anupam Agarwal, counsel for respondents

Heard counsel for the parties.

For the reasons to be dictated separately OA stands alongwith MA
disposed of.


(B.L. Khatri)
Member (Administrative)


(M.L. Chauhan)
Member (Judicial)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 22nd day of July, 2009

ORIGINAL APPLICATION No.84/2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Chand Mal Prajapati,
s/o Shri Ghasi Ram,
r/o Railway Retired Colony,
Near Prayerna School, Shyamgarh,
At present working on the post of
Technician Gd-I, TRD in Western
Central Railway, Kota Division.

.. Applicant

(By Advocate: Shri Shiv Kumar)

Versus

1. Union of India through General Manager, Western Central Railway, Jabalpur.
2. Chairman, Railway Board, Rail Bhawan, Ministry of Railway, New Delhi.
3. Divisional Railway Manager, Western Central Railway, Kota Division, Kota, Rajasthan
4. Senior Divisional Electrical Engineer (KV) (Establishment), Western Central Railway, Kota Division.

.. Respondents

(By Advocate: Shri Anupam Agarwal)

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ORDER (ORAL)

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

- (i) That the Para 219 (j) (iii) of Indian Railway Establishment Manual Vol.I and Railway Board Circular No.232/86 dated 26.11.1986 Annexure-A-2 so far it relates to preparation of final panel on the basis of seniority may please be declared assumed void and further Para 219 (j)(iii) of Indian Railway Establishment Manual Vol-I and Railway Board Circular No.232/86 dated 26-11-1986 so far it relates to preparation of final panel on the basis of seniority may please be set aside. Further impugned order dated 9-3-2009 Annexure-A-1 may please also be quashed so far it relates to preparation of panel on the basis of seniority. Further the respondents may please be directed to prepare the panel on the basis of merit. Further the impugned eligibility list Annexure-A-4 may please be declared illegal and the same may please be quashed.
- (ii) Any other order/direction may please be passed in favour of applicant who may be deemed fit just and proper under facts and circumstances of the case.
- (iii) The cost of original application may please be awarded."

2. Facts of the case are that the respondents issued notification dated 5.9.2008 (Ann.A/3) for filling up the post of Junior Engineer Gr.II in the pay scale of Rs. 5000-8000 under 25% LDCE quota. The eligibility for that purpose was also issued and written test was to be held on 21.3.2009. The grievance of the applicant is regarding the manner of preparing the final select panel which was to be prepared as per the corrigendum dated 9.3.2009 (Ann.A/1) which stipulates that panel has to be prepared on the basis of seniority instead of merit as per Railway Board circular dated 26.11.1986 [RBE No.232/86] (Ann.A/2). According to the applicant, such a course was not permissible for the respondents in view of the judgment

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rendered by the Hyderabad Bench of this Tribunal as well as various instructions issued by the Railway Board from time to time.

When the matter was listed on 17.3.2009, this Tribunal taking note of the aforesaid fact granted ex-parte interim stay and it was directed that respondents may proceed further regarding the selection for the aforesaid posts, but the panel for the said posts shall not be prepared till the next date without obtaining permission from this Court.

3. The respondents have filed reply thereby justifying their action. In the reply, it has been stated that the Railway Board Circular dated 26.11.1986 which has been made applicable for the aforesaid selection cannot be faulted.

4. We have heard the learned counsel for the parties. We are of the view that in view of the subsequent development whereby the respondents have superseded their all previous instructions, the stand taken by the respondents cannot be accepted. It may be stated that the Railway Board vide RB/Estt.No.11/2009 dated 19.6.2009 has amended the selection criteria and has also substituted the existing clause (ii) below sub-rule (j) of Para 219 of the Indian Railway Establishment Manual (IREM) which was in tune with the instructions issued by the Railway Board vide letter dated 26.11.1986 regarding which grievance has been made by the applicant in this OA. As per the substituted clause (iii) below sub-rule (j) of Para 219 which has been incorporated in the IREM Vol.I 1989 Edition as per the Advance Correction Slip No. 209, the final panel

has to be drawn in the order of merit based on aggregate marks of 'Professional ability' and 'Record of service'. It is further stipulated that a candidate must secure a minimum of 60% marks in 'Professional ability' and 60% marks in the aggregate, for being placed on the panel. There will be no classification of candidates as 'Outstanding'. The Railway Board has also issued instruction vide RB/Estt. No. 113/2009 in the light of the provisions noticed above and in para 3.2 it has been stated that these instructions shall be applicable with immediate effect i.e. from the date of issue of these orders, to all panels for promotion to general posts. Any previous selection panel drawn up otherwise, before issue of this letter, need not be reopened. Thus, in view of the Railway Board instructions dated 19.6.2009 and the fact that in the instant case no final panel for the aforesaid posts has been prepared by the respondents till date, we are of the view that it is not permissible for the respondents to prepare select panel as per the corrigendum dated 9.3.2009 (Ann.A/1) read with RBE No.232/86 dated 26.11.1986 (Ann.A/2) and respondents shall have to prepare the panel on the basis of RB/Estt.113/2009 as circulated vide Railway Board letter dated 19.6.2009.

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



6. In view of the order passed in the OA, no order is required to be passed in MA No.202/2009, which shall stand disposed of accordingly.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl.Member

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