

13

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

---

**ORDERS OF THE BENCH**

---

**27.07.2011**

OA No. 98/2009

Mr. Nand Kishore, Counsel for applicant.  
Mr. R.G. Gupta, Counsel for respondents.

Put up for hearing on 05.09.2011.

*Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

*J.C. S. Rathore*  
(Justice K.S. Rathore)  
MEMBER (J)

AHQ

2mm

5.9.2011

Mr. Nand Kishore, Counsel for applicant  
Mr. R.G. Gupta, Counsel for respondents

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

*Anil Kumar*  
(Anil Kumar)  
M(A)

*J.C. S. Rathore*  
(Justice K.S. Rathore)  
M(J)

2mm

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 98/2009**

DATE OF ORDER: 05.09.2011

**CORAM**

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER**

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Chhagan Raj/Chagan Lal Gehlot S/o Shri Gopi Lal Gehlot, aged about 45 years, working as Master Craft Mechanic in Diesel Shed Phulera, Scale Rs. 5000-8000, R/o Dhani Nagan, Phulera, District Jaipur (Raj.).

...Applicant

Mr. Nand Kishore, counsel for the applicant.

VERSUS

1. Union of India through General Manager, North Western Railways, Hasanpura Road, Jaipur.
2. Divisional Railway Manager, North Western Railway, Power House Road, Jaipur.
3. Shri Girdhari Lal Saini, Master Craft Mechanic, Diesel Shed Phulera, District Jaipur.

...Respondents

Mr. R.G. Gupta, counsel for the respondents.

**ORDER (ORAL)**

Only the grievance of the applicant is that the respondents has not awarded the proper marks to the appreciation awarded to the applicant in addition to the marks of the confidential report, which are not adverse as they have not communicated any adverse report.

2. It is submitted that vide letter dated 07.11.2008, in the written examination, the applicant secured 30 marks out of 50, and in the service record, the applicant secured 16 marks out of 30 marks, and, thus, the applicant secured total 46 marks out of 80 marks, and it is not disputed that minimum



60% marks is required for consideration and as alleged by the applicant that if for the appreciation, two marks are awarded to him, he will be able to secure 60% marks.

3. This is second round of litigation as the applicant has earlier preferred an OA No. 244/2008, which was disposed of as withdrawn vide order dated 24.02.2009. In the aforesaid O.A. also, the same relief was claimed by the applicant, and the Tribunal vide its order dated 24.02.2009 have thoroughly considered the submissions advanced on behalf of the applicant as well as the respondents and observed that the fact has not been disputed by the respondents, and however, in the reply they have stated that the applicant has got less than 60% marks in aggregate, whereas the respondent no. 3 got more than 60% marks in aggregate. Therefore, the name of the respondent no. 3 was rightly included in the panel dated 18.06.2008. In other words, the case set up by the respondents is that no doubt the applicant qualified the written test but he has not got more than 60% marks in written test as well as service record in aggregate. According to the respondents, panel for the post(s) has to be prepared by way of positive act of selection and seniority alone is not sole criteria.

4. In view of the stand taken by the respondents in reply in the earlier O.A. No. 244/2008, the applicant wanted to withdraw that O.A. with liberty reserved to him to challenge the selection criteria by filing substantive OA.



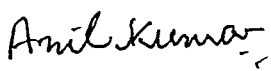
5. As the liberty was accorded to the applicant, therefore, the present substantive O.A. has been preferred by the applicant, but the applicant has not challenged the selection criteria, but he has reiterated the same relief, which has been claimed in the earlier O.A., and even otherwise also, the applicant is legally not entitled to challenge the selection criteria as held by the Hon'ble Supreme Court in the case of **Vijendra Kumar Verma vs. Public Service Commission, Uttarakhand & Ors.** reported in 2010 (3) Apex Court Judgments 692 (S.C.), wherein the Hon'ble Supreme Court has held that a candidate who takes part in selection process knowing fully well the procedure laid down therein is not entitled to question the same after appearing in the said selection process.


6. As stated hereinabove, the applicant has not challenged the selection criteria for which the liberty was granted to him and has reiterated the same grounds and relief which was taken in the earlier O.A., and we are satisfied with the submissions made on behalf of the respondents that the applicant has been awarded the marks for the service record as per rules. As per directions contained in letter dated 29.08.2006 and as per rules, the service record is taken into consideration of the past three years. The appreciation certificate along with the service record was also considered and the marks were awarded to the applicant. But the



applicant could not obtain the requisite marks on account of which the applicant could not find place in the panel.

7. Therefore, in our considered view, the applicant has no cause of grievance, and the present Original Application being bereft of merit deserves to be dismissed, and the same is hereby dismissed with no order as to costs.

  
(ANIL KUMAR)  
MEMBER (A)

  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

kumawat