

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 543/2011

Order Reserved on: 06.10.2016

Date of Order: 22.10.2016

CORAM

Hon'ble Mr. S.K.Kaushik, Judicial Member

Hon'ble Ms. Meenakshi Hooja, Administrative Member

All India Scheduled Caste and Scheduled Tribes Railway Employees' Association, North Western Railway, Jaipur through its, Zonal Additional Secretary Ram Singh S/o Late Shri Udal Singh, aged about 45 years.

.....Applicant

(By Advocate Mr. Nand Kishore)

VERSUS

1.Union of India, through General Manager, North Western Railway, Jawahar Circle, Jagatpura Road, Jaipur.

2.The Divisional Railway Manager, Northern Western Railway, Ajmer.

3.Shri Sunil Mohan Johari, Senior Divisional Personal Officer, North Western Railway, Ajmer.

.....Respondents

(By Advocate Mr.Tanveer Ahmed)

ORDER

(Per Hon'ble Member(A) Ms. Meenakshi Hooja)

This OA has been filed by the applicant-Association M/s All India Scheduled Caste and Scheduled Tribes Railway Employees' Association, North Western Railway, Jaipur through its President, under Section 19 of the Administrative Tribunals Act, 1985 being aggrieved with the notification dated 02.06.2011 issued by respondent No.2 regarding selection to posts of Ticket Collector and Commercial clerk in Ranker's Quota 16-2/3 % (Ann. A/1) and directions of respondent No.1 dated 15.07.2011 (Ann.A/2) upholding Ann.A/1, and

in connection with letter dated 01.11.2011 Ann.A/3, declaring the eligibility list for selection to the said posts and thereby seeking the following reliefs:-

8(i) The letter dated 02.06.2011 (Ann.A/1), 15.07.2011 (Ann.A/2) and letter dated 1.11.2011 (Ann.A/3) may be declared arbitrary, bad in law and may be quashed and set aside.

(ii) The respondents may further directed to revised their notification dated 2.6.2011 in accordance with provisions of para 189 r/w 155 of IREM 189 and not putting the condition of two years' service in case of SC/ST candidates so that the SC/ST candidates may not be suffered.

(iii) Any other direction and orders which is deems proper in the facts and circumstances of the case may kindly be allowed to the applicant.

2. The main question in this OA is whether the condition of two years of regular continuous service for selection by promotion to the posts of Ticket Collector and Commercial clerk in 16-2/3% Rankers Quota as notified vide Memo dated 02.06.2011 (Ann.A/1) is applicable or not to the Scheduled Casts and Scheduled Tribes (in short SC/ST) candidates. When the matter came up for consideration and hearing, Ld. counsel for applicant submitted, with reference to the averments made in the OA, that vide Ann.A/1 dated 02.06.2011, a notification for filling up the posts of Ticket Collector and Commercial Clerk in the 16-2/3% Ranker's Quota has been issued by the respondent No.2 in which there is, inter-alia, a condition of 2 years regular service and despite provisions in the Indian Railway Establishment Manual (IREM), that such conditions do not apply to SC/ST candidates, no such mention has been made in the notification and thereby the same have been made applicable to SC/ST candidates against the laid down provisions. This notification has also been upheld by the higher authorities i.e. General Manager vide letter dated 15.07.2011 Ann.A/2.

In this regard counsel for applicant contended that the respondent Railways had introduced promotion to certain Group-C posts such as the lowest grade of Commercial clerk, Ticket Collector, Train Clerks

etc. from Group-D posts, for whom no regular avenues for promotion existed, and these provisions may be seen in Para 189 of the IREM (1989 edition) which has partially been amended by Advance Correction Slip 155. Counsel for applicant also contended that as may be seen from Para 189 of IREM, that for promotion of the 33-1/3% quota, minimum 3 years' service is required but this has not been made applicable to SC/ST candidates. Counsel for applicant further submitted that the promotion quota of 33-1/3% was increased to 50% and this was further divided in two categories viz. 33-1/3% and 16-2/3%. In this regard he submitted that the procedures and conditions of para 189 (read with Advance Correction Slip 155) have to be applied even while filling up the posts in 16-2/3% quota for which two years regular service is required but the same is not to be made applicable to SC/ST candidates just as the 3 years regular service in 33-1/3% quota is not applicable to SC/ST candidates. Counsel for applicant submitted that keeping in view these provisions a notification dated 16.05.2006 Ann.A/5 for the post of Ticket Collector was issued by DRM, Jaipur and a notification dated 11.04.2008 Ann.A/6 for the post of Ticket Collector and Commercial Clerk was issued by DRM, Ajmer with reference to promotion in 16-2/3% quota and both clearly provided that 2 years regular service is not applicable for SC/ST candidates. However, in the notification dated 02.06.2011 Ann.A/1 this requirement of two years' continuous regular service has been retained even for SC/ST candidates but which is not according to instructions laid down in IREM.

3. Counsel for applicant reiterated that Para 189 (read with Advance Correction Slip 155) is applicable for the selection in 16-2/3% Ranker's quota also and condition of two years' service imposed for SC/ST candidates is against the rules and regulations and even referred to the note of the Headquarter office obtained under RTI as

at Ann.A/12 (filed with the rejoinder) in which initially the view was that 2 years regular service condition was not applicable to SC/ST candidates but the same was changed only under pressure from a Trade Union. On these grounds counsel for applicant submitted that Ann.A/1 and Ann.A/2 and Ann.A/3 are required to be set aside and OA be allowed so that SC/ST candidates do not suffer and are not deprived of their due chances of promotion.

4. Per contra, the Ld. counsel for the respondents, while referring to and reiterating the position brought out in the written statement, submitted that the relief sought by the applicant Association for not applying the condition of two years continuous regular service for SC/ST employees for promotion to the post of Ticket Collectors and Commercial Clerks in 16-2/3% quota, with reference to notification dated 02.06.2011 Ann.A/1 issued by the respondent No.2, is not admissible as per IREM provisions and directions given by respondent No.1 vide Ann.A/2 dated 15.07.2011 are entirely in accordance with the IREM. In this regard counsel for respondents clarified that actually for filling up the posts of Ticket Collector and Commercial Clerks (notified in the notification dated 02.06.2011 Ann.A/1), provisions of Para 127 and 128 of the IREM (as amended by Advance Correction Slip 154 issued in 2003) pertaining to the 16-2/3% promotion quota are relevant and the same may be seen from Advance Correction Slip No.154 filed as Ann.R/2. As per these amended provisions of sub para (1) (iii) of Para 127 and 128, the 16-2/3% quota promotion is to be filled up "*entirely on merit from matriculate Group-D employees (from eligible categories as specified by the Zonal Railways for (ii) above) with the minimum of two years regular service in the concerned seniority unit, on the basis of competitive examination consisting of written test and record of service of 85 and 15 marks respectively.*"

There is no provision for making the minimum 2 years regular service in the concerned seniority unit not applicable to SC/ST candidates.

5. He further brought out that as may be seen from the Advance Correction Slip No.154 the post of Train clerk, Ticket Collector and commercial clerk are now filled up in three ways (i) 50% by direct recruitment through RRB, (ii) 33-1/3% by promotion by a process of selection from eligible Group D staff, and (iii) 16-2/3% as mentioned above. The notification dated 02.06.2011 (Ann.A/1) pertains to filling up of the posts of 16-2/3% quota of Ticket Collectors, and Commercial Clerks and a provision of 2 years regular service is fully in accordance with the advance correction slip 154 which has amended the relevant provision in Para 127 and 128 of the IREM of 1989 edition. The clarification issued by respondents No.1 as at Ann.A/2 dated 15.07.2011 is also in accordance with the same. Counsel for respondents also brought out that the provisions of IREM of 1960 and 1968 are not in existence and at present IREM 1989 edition is in force and on the basis of which the aforesaid posts are to be filled up as per provisions in the Advance Correction Slip 154 issued in 2003. Counsel for respondents also clarified that Ann.A/5 and Ann.A/6 referred to by the applicant are not in consonance with the IREM. He further submitted, with reference to contention made by the counsel for applicant the provisions of Para 189 of IREM read with Advance Correction Slip 155 are applicable to 16-2/3% of promotion quota also, that the same are not applicable in the case of promotion against 16-2/3% quota because as a bare perusal of Para 189 read with Advance Correction Slip 155 (also filed as part of Ann.R/2) would show that they pertain to promotion made against 33-1/3% quota. It is amply clear from sub-para (1) (ii) of the para 127 and 128 of IREM that the 33-1/3% are to be filled up by promotion by a process of selection from eligible Group-D categories of staff as specified by the Zonal

Railways as per procedure prescribed in Para 189. And it is only for these 33-1/3% promotion posts that inter-alia in Para 189 there is requirement of 3 years regular service which has not been made applicable in the case of SC/ST candidates. However, in the case of 16-2/3% promotion cases, there is no provision to make the condition of minimum 2 years regular service not applicable to SC/ST candidates. Therefore, the notification Ann.A/1 dated 02.06.2011 is in order and in accordance with the relevant provisions of IREM and direction issued vide Ann.A/2 dated 15.07.2011 are also fully in order and Ann.A/3 dated 01.11.2011 simply notifies the eligible candidates and the schedule for written examination to be held on the basis of notification dated 02.06.2011. Counsel for respondents thus contended that keeping in view that there is no provision in IREM whatsoever to make condition of two years continuous regular service for filling up the posts of Ticket Collector & Commercial Clerk against 16-2/3% promotion quota not applicable to SC/ST candidates, the OA lacks merit and he, therefore, prayed for its dismissal.

6. We have carefully considered the aforesaid contentions and perused the records including the provisions of IREM. It is seen that Para 127 and 128 which are under sub-section-B, Chapter-1 of IREM pertains to filling up of the posts of Ticket Collector and Commercial Clerks. As per Advance Correction Slip No.154 which has been enclosed with RBE No.165/2003 by the respondents (Ann.R/2), the provisions for filling up the post of Ticket Collector and Commercial Clerk in the pay scale of Rs.3050-4590 as para 127 and 128 are as under:-

- (i) 50% by direct recruitment through Railway Recruitment Board;
- (ii) 33-1/3% by promotion by a process of selection from eligible Group-D categories of staff as specified by the Zonal Railways as per procedure prescribed in Para 189; and
- (iii) 16-2/3% by promotion entirely on merit of Matriculate Group-D employees from eligible categories, as specified by the Zonal Railways for (ii) above, with a minimum of 2 years regular

service in the concerned seniority unit on the basis of a competitive examination consisting of Written Test and Record of service of 85 and 15 marks respectively.

Thus it is apparent that para (iii) of sub para 1 of Para 127 and 128 do not state that condition of minimum of 2 years regular service in the concerned seniority unit is not to be made applicable to SC/ST candidates. At the same time it is noted that the promotion of 33-1/3% posts is to be made by a process of selection as per procedure prescribed in Para 189. Para 189 (as amended by Advance Correction Slip No.155 and also filed as Ann.R/2 by the respondents) lays down the procedure for filling up of 33-1/3% posts in the lowest grade of Commercial clerks, Ticket Collectors, Train Clerks etc., and in Para 189 (ii) it has been provided that "*Group-D Railway servants eligible for promotion to Group-C posts should have put in minimum 3 years of continuous service. This does not applies to Scheduled Casts and Scheduled Tribes candidates.*" Therefore, it is quite evident that in the present case the notification Ann.A/1 dated 02.06.2011 has been issued for the post of Ticket Collectors and Commercial clerks in the 16-2/3% quota and there is no provision that the condition of 2 years service is not applicable to SC/ST candidates. The contention of the counsel for applicant that provisions of Para 189 read with Advance Correction Slip 155 regarding the period of regular service not being applicable to SC/ST candidates for 33-1/3% promotion, also applies in case of promotion for 16-2/3% quota does not hold force in the face of absence of any such clear cut provisions.

7. At the same time it is also noted that though the Advance correction Slip 154 was issued in 2003 but applicant in his OA has referred to certain notifications Ann.A/5, Ann.A/6 wherein relaxation in service has been provided to SC/ST candidates in the 16-2/3% quota but in view of the Advance Correction Slip 154 (Ann.R/2) there is no

provision regarding continuity and length of regular service not being applicable to SC/ST candidates. Further these notifications have not been challenged before us and the notification Ann.A/1 cannot merely be set aside on the ground that there have been other notifications which provided as such, because Ann.A/1 is in accordance with the provisions of the relevant Para 127, 128 of IREM (1989 edition) as amended by Advance Correction Slip 154.

8. In view of the above analysis, the averments in the OA and the contentions of the Ld. counsel for applicant lack merit, and as Ann.A/1, Ann.A/2 and Ann.A/3 appear to be in accordance with provisions of the relevant Para 127, 128 of the IREM read with Advance Correction Slip 154, there is no valid and legal ground before us to set them aside. Accordingly, the OA is dismissed with no order as to costs.


(Ms. Meenakshi Hooja)
Administrative Member


(S.K. Kaushik)
Judicial Member

Adm/