

(RESERVED ON 30.10.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 15TH day of **NOVEMBER, 2018**.

ORIGINAL APPLICATION NO. 330/1524/2011

HON'BLE MR JUSTICE BHARAT BHUSHAN, MEMBER (J).
HON'BLE MR MOHD. JAMSHED, MEMBER (A).

1. Amit Kumar Gupta, S/o Sri Anil Kumar Gupta, R/o Kumar Medical Hall, Moharipur Bazar, District Gorakhpur.

.....Applicant.

VERSUS

1. Union of India, through Secretary (Railway) Government of India, New Delhi.

2. Railway Recruitment Board, SCU:34, Sector-7-c, Chandigarh through its Secretary.

3. General Manager (Personnel), Main Office Baroda House, New Delhi.

4. Chief Personnel Officer, Northern Railway, New Delhi.

.....Respondents

Advocate for the Applicant : Shri Ashish Srivastava

Advocate for the Respondents : Shri Anil Kumar

O R D E R

(Delivered by Hon'ble Mr. Mohd. Jamshed, Member-A)

The present Original Application (OA) has been filed by the applicant seeking the following reliefs:-

- "(i) To issue an appropriate order or direction commanding the respondents concerned to consider the representation of the applicant and to pass appropriate reasoned order thereon after hearing the applicant.
- (ii) To issue an appropriate order or direction commanding the respondents concerned to appoint the applicant on the post of Assistant Station Master in pursuance of the Select Panel which was declared on 11.9.2007.
- (iii) To issue any other order or direction in favour of the applicant which this Hon'ble Tribunal deems fit and proper in the present facts and circumstances of the case, so as to secure the ends of justice.
- (iv) Award cost of the instant application to the applicant."

2. The facts of the case as mentioned in the OA are that the respondent no. 2 had published an advertisement in employment notice vide advertisement no. RRB/CDD/01/2007 on 17.03.2007 for recruitment of 40 posts of Assistant Station Master, Category-26 and 50 posts of Goods

Guard, Category-27. The applicant applied for the post of Assistant Station Master and appeared in the Written Examination conducted on 24.06.2007. The result of the said examination was published on 24.07.2007 and 207 candidates were declared provisionally qualified for appearing in the Aptitude Test for the post of Assistant Station Master. The applicant appeared in the Aptitude Test conducted on 30.08.2007. The result of the Aptitude Test was declared on 11.09.2007 and 48 candidates including the applicant, were declared provisionally qualified for Document Verification for the post of Assistant Station Master, Category-26. The final result was declared on 28.11.2007 in which 39 candidates were declared successful for the post of Assistant Station Master and 45 candidates were declared successful for the post of Goods Guard. The name of the applicant was not found in the list of successful candidates. The candidates selected for the post of Assistant Station Master were called for training and the applicant came to know that out of 39 candidates only 36 candidates had reported on the training centre as such three posts remained vacant. Later, the applicant also came to know that during the training four other candidates out of the total 36 reported for training, also left the training and as such only 32 candidates underwent the training and so seven posts of Assistant Station Master out of 39 remained unfilled/vacant.

3. As the applicant was not selected, he preferred application under the Right to Information Act seeking information as to how many candidates out of 39 completed their training and joined finally. The applicant has further stated that in terms of policy decision of the Railway Board in all recruitments in case the selected persons failed to join the post, the persons who are kept in stand by under 20% excess should be appointed on the post in question and therefore, in the present case also, the

applicant who was, according to him, provisionally selected and kept on stand by in waiting list should have been appointed when the selected candidates did not join on the post.

4. In the counter affidavit filed by the respondents the following facts have been put forward:-

- (i) By means of the present O.A., the applicant wants appointment against the select panel of Assistant Station Master which was declared on 11.09.2007, and as the present O.A. has been filed in the year 2011 as such present O.A. is barred by time.
- (ii) It has also been averred that against the total demand of 40 Assistant Station Master, a final panel of 39 selected candidates was received from RRB Chandigarh vide letter No. R.R.B./C.D.G./C.O.M.F./JEN dated 28.11.2007 and that in view of administrative exigencies and urgent need of ASMs at Firozpur Division of Northern Railway for smooth and accident free running of the trains and to avoid any hardship to the passengers it was felt necessary to provide above panel of 39 selected candidates to Firozpur Division instead of Ambala Division of Northern Railways. Accordingly, seeing the urgent need the said panel of 39 ASMs was sent to Firozpur Railway Division vide letter dated 07.01.2008 with the approval of competent authority. In pursuance of the said panel, the Firozpur Division issued appointment letters to all the 39 selected candidates.
- (iii) It has also been mentioned by the respondents that the present OA is not tenable in view of the fact that it was already provided in the notification that any dispute regarding

recruitment under the notice shall be within the jurisdiction of Tribunal under which the RRB Office was situated i.e., Chandigarh Bench of this Tribunal and hence, the OA is not maintainable at this Bench.

- (iv) It has also been mentioned that the applicant was only called for Document Verification and merely calling the candidates for Documents Verification does not in any way entitle him or her for appointment in the Railways.
- (v) It is further stated that since the applicant's name did not find place in the final list of successful candidates dated 28.11.2007 hence, the applicant has no claim against the said final panel which was declared in the year 2007.

5. Learned counsel for the applicant argued that the applicant was successful in the Written Examination and his roll number was also published in the list of successful candidates of Written Examination on 24.07.2007. Further, in the next stage, the applicant also qualified in the Aptitude Test, the result of which was declared on 11.09.2007, in which 48 candidates were declared provisionally qualified for Candidature and Documents Verification for the post of Assistant Station Master. However, in the final panel declared by RRB on 28.11.2007, only 39 candidates were provisionally selected and the applicant did not succeed in that.

6. Learned counsel for the applicant has also drawn our attention to the Railway Board's letter no. E[RRB]/2008/25/10 dated 25.07.2008 regarding replacement panels/shortfalls in panels. Vide this circular, the Railway Board has reiterated its earlier directions that 20% extra candidates to be called for certificate verification be kept in readiness in case "indenting Railway/Unit asks for replacement panel". Vide another circular dated 07.07.2009 this was reiterated and the percentage of

candidates to be called for certificate verification was to be enhanced from 20% to 30%.

7. Learned counsel for the applicant mentioned that in terms of the Railway Board's direction, the RRB had declared the result of the Aptitude Test and called 48 candidates for document verification, which obviously meant that 20% extra candidates were called and accordingly, the applicant had also been called for Candidature and Document Verification vide RRB letter dated 11.09.2007 and, therefore, he should have been given appointment in case of any vacancy arising out of the final panel of 39 selected candidates declared on 28.11.2007 (result of one candidate of ST category was to be declared later).

8. Learned counsel for the applicant also argued that although selection is of 2007 and the OA has been filed in 2011, the applicant was during this time seeking clarifications from various authorities and when the respondents could not provide any redressal to the grievances of the applicant, he has filed the present OA before this Tribunal.

9. Learned counsel for the applicant in support of his argument about the jurisdiction of this Bench in the present O.A., which involves recruitment by the RRB, Chandigarh has strongly argued that as the candidate is from Gorakhpur and call letters for the examinations were sent to his Gorakhpur address, it can be taken as place of cause of action which involves territorial jurisdiction of Allahabad Bench of this Tribunal. He has also quoted few Apex Court judgements in this regard.

10. Learned counsel for the respondents has drawn our attention to the RRB Chandigarh notice dated 11.09.2007 declaring the result of the Aptitude Test wherein it is clearly mentioned that:-

"In order to take care of the shortfall in the formation of the provisional panel, the number of candidates being called for

documents verification is more than the actual number of vacancies and, therefore, it is made clear that merely calling a candidate for candidature and documents verification, does not, in any way, entitle him to an appointment in the Railways".

11. Learned counsel for the respondents has also drawn our attention to the RRB Chandigarh letter dated 21.09.2006 addressed to the applicant and calling him for Candidature and Document Verification which also mentions that:-

"यहाँ यह स्पष्ट किया जाता है कि, चूंकि रिक्तियों के अनुसार पात्र अभ्यर्थियों कि उपलब्धता सुनिश्चित करने हेतु, दस्तावेज सत्यापन हेतु बुलाए जाने वाले अभ्यर्थियों कि संख्या वास्तविक रिक्तियों से अधिक है, अतः किसी अभ्यर्थी कि अभ्यर्थिता तथा दस्तावेज सत्यापन हेतु बुलाने का आशय उसकी नियुक्ति के लिए पात्रता नहीं समझा जाना चाहिए।"

12. Learned counsel for the respondents mentioned that the final result was declared on 28.11.2007 based on the Written Examination held on 24.06.2007, followed by Aptitude Test held on 30.08.2007 and Document Verification from 23.10.2007 to 24.10.2007 and the roll numbers of the thirty nine candidates published in the result were provisionally selected and placed on panel. It was also mentioned in this letter that the appointment letters will be issued by the Northern Railway subject to his/her suitability in all aspects, availability of vacancies, final verification of certificates and medical fitness etc as per rules.

13. Learned counsel for the respondents has drawn our attention to the fact that this panel was sent by RRB Chandigarh against 40 vacancies at Ambala Division. It is also mentioned in that letter that the vacancies are in terms of the indents sent by Ambala Division. It is also stated that in view of the urgent requirement of ASMs at Firozpur division of Northern Railway, it was decided by the competent authority to sent this provisional panel of 39 candidates to Firozpur Division vide GM (P) Northern Railways letter dated 07.01.2008.

14. Learned counsel for the respondents has stated that Railway Board circular dated 07.07.2009 is for calling 20% extra candidates for certificate verification so that, in case, the indenting Railway/Unit asks for a replacement panel, the same can be furnished. However, for this selection the demand sent by Railways to RRB, Chandigarh was only for 40 ASM candidates and the panel received from RRB of 39 selected candidates was sent to Firozpur Division against the indents by Railway and therefore, in this case, there is no claim of the applicant for appointment as he was not even selected in the final panel of 39 candidates.

15. We have heard the arguments of learned counsels for both the parties and perused the records.

16. In this case, the selection was conducted by the Railway Recruitment Board, Chandigarh for 40 posts of ASM as per the demand given by the Ambala Division, Northern Railway. The Railway Recruitment Board undertakes recruitment with detailed procedure involving different stages of examinations/tests including Written Examination, Aptitude Test, Candidature and Document Verification and finally declares the panel of successful candidates and forwards the same to the concerned Zonal Railway which has given the requirements for such posts. In this case, the Railway Recruitment Board, Chandigarh conducted Written Examination, Aptitude Test and declared the results calling the candidates for Candidature and Document Verification. After the final stage, the finally selected candidates were declared through the result published by the Railway Recruitment Board, Chandigarh for 39 candidates and one reserved post for ST candidate was to be declared later. The Railway Recruitment Board also very clearly mentioned in the result of the Written Examination, Aptitude Test and also in the letters sent to the candidates calling them for Candidature and Document Verification that additional

candidates have been provisionally included in the panel to take care of the shortfall in the formation of final provisional panel and it is made clear that calling the candidates for Candidature and Document Verification does not in any way entitle him or her to appointment under the Railways. It has also been argued that the Railway Recruitment Board should also prepare a replacement panel consisting of 20% candidates and these 20% excess candidates should be posted against any vacancies arising as a result of selected candidates not joining the service. However, this argument is merely based on assumption that a panel of 20% candidates will be formed and the candidates will be picked from this panel. Further, it is very clear from the Railway Board's letter that the replacement panel is only to be formed based on the requirement given by the indenting Railway Division/Zonal Railway. In this instant case, the panel of 39 ASMs made by RRB against the demand given by the Railways was sent to Firozpur Division of Northern Railway instead of Ambala Division due to urgent requirement and there was no further demand put up by the indenting Railways on RRB and therefore, the finally selected panel had only 39 candidates. The applicant was not selected in the final panel of 39 candidates by the RRB and therefore, he has no claim or right to be called against any shortfall which may have taken place later in the panel sent to the Zonal Railways.

17. In view of the above mentioned, we do not find any justification in the applicant's request to be considered for post of ASM, without having been declared successful in the final panel prepared by the RRB.

18. Accordingly, the OA is dismissed. No order as to cost.

(MOHD JAMSHED)
MEMBER-A

(JUSTICE BHARAT BHUSHAN)
MEMBER-J