

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.943 of 2012

Date of CAV: 10.08.2018

Date of Order:20.08.2018

Between:

B. Rama Krishna, S/o. B. Rama Swamy,
Aged about 32 years, Occupation: Khalasi Helper-I,
Office of SSE (C&W), Sr. DME Office, Guntur,
R/o.Guntur.

... Applicant

And

1. Union of India, Rep. by the Divisional Railway Manager,
South Central Railway, Guntur Division, Guntur.
2. The Senior Divisional Mechanical Engineer,
South Central Railway, Guntur Division, Guntur.
3. The Senior Divisional Personnel Officer,
South Central Railway, Guntur Division, Guntur.
4. A. Baladhanapathi Rao,
Occupation: Technician II,
Office of SSE (C&W), Sr. DME Office, Guntur,
R/o. Guntur.

... Respondents

Counsel for the Applicant ... Mr. M.V. Krishna Mohan, Advocate
Counsel for the Respondents ... Mr. M. Venkateswarlu, SC for Railways

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***
Hon'ble Mr. Swarup Kumar Mishra ... ***Member (Judl.)***

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

1. The OA is filed challenging the decision of the respondents in not promoting the applicant to the post of Technician grade III vide memo no GNT/P.608/III C&W/Tech Gr. III/LDCE. Dt 31.12.09 along with letter no SCR/P/GNT/209/09/conf/S&W1 dt 18.8.2011

2. The applicant joined the respondent organization on 18.11.2004 as a substitute Khalasi and his services were regularized w.e.f 18.3.05 as Helper –II and was promoted as Helper I on 19.2.07. As Helper I, the applicant applied for the post of Technician Gr. (III) in the scale Rs.5,200-20,200 + Rs.1900 (Grade Pay) in response to the notification dt. 23.12.08 issued by the respondents against 25 % LDCE quota in the Mechanical (C&W) Department in Guntur Division.

3. The number of vacancies were 4 with 2 for UR and one each for S.C and S.T. The eligibility criteria being pass in Matriculation or its equivalent or pass in 10th class in 10+2 system and minimum of 3 years service in Group D in Mechanical (C& W) Department. However, for S.C & S.T candidates one year service in Gr. D cadre would suffice, provided they have the requisite educational qualification. Being eligible, the applicant applied for the said post. A written exam was held on 23.10.09 and selection finalized on 28.12.2009. The applicant name did not figure in the select panel dt 31.12.2009 though he cleared the written exam.

4. The applicant contends that he came to know from reliable sources that he got more marks than the fourth Respondent, yet he was not selected. Therefore, he sought information under RTI about the marks scored by each candidate, as there was no response to the representations made by him to the respondents on this count. The applicant on receipt of information from the respondents found that he got 69 marks, whereas the 4th respondent got only 65.5 marks which is less than those of the applicant. On representing to the Respondents on 1.8.11, the applicant was informed that as per seniority he was at S1 No. 4 and as per merit he was at S1. No.3. As he was not within the first two positions to be considered for the two UR vacancies he was not selected as per circular No 23/1998.

5. The applicant based on the reply he received from the official Respondents once again represented to the later, drawing their attention to circular of Railway Board 113/2009 dt. 19.6.09 wherein it was stated that for General posts the panel has to be drawn on the basis of merit and not on seniority.

6. The Respondents in the reply statement have furnished the marks of the candidates arranging their names as per seniority as under:

1. Alamuri Baladhanapathi Rao (SC)	65.5%
2. Boddu Suresh Kumar (SC)	75%
3. Y. Krishna Mohan (SC)	69.5%
4. B. Ramakrishna	69%
5. D. Raju (SC)	64.5%
6. K. Ananda Rao	63.5%

7. The respondents contend that based on merit as per Railway Board letter dt 19.6.2009 the applicant could not be selected for the two UR posts since he stood third in the order of merit. There were two SC candidates who got 75% and 69.5%, which are more than the marks of 69 % secured by the applicant. As per Railway Board Lr. dated 7.8.2002, SC/ST candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualification will not be adjusted against reserved points of the reservation roster and they will be adjusted against the unreserved points. The third post being reserved for the S.C, the fourth respondent who got the highest marks ie 65.5% among the S.C candidates was hence selected. The respondents also claim that even on seniority basis the applicant does not stand a chance as he was fourth in the seniority list, which of

course cannot be the criteria to be considered as per Railway Board circular 113/2009 dt 19.6.09.

8. Heard the learned counsels. They marshalled their arguments as per written submissions made. However, the counsel for the applicant stated that the Scheduled Caste candidates should be selected only against SC vacancies which is incorrect as per Railway board lr dt 7.8.02.

9. On evaluating the records placed before the Tribunal and appreciating the averments made by the counsels on either side, the Tribunal has come to the conclusion that the documentary evidence let in, makes it clear that the UR vacancies have been adjusted as per merit with the first two candidates who secured 75% and 69.5 %, which are greater than those of the applicant who secured 69 %. Incidentally the meritorious happen to be SC candidates and the Railway Board lr dated 7.8.02 permits such adjustment against UR vacancies. The third vacancy reserved for SC point, was filled by the fourth respondent who got highest ie 65.5% amongst the S.C candidates.

10. To conclude, it is seen that the selection was done as per merit as was represented by the applicant. The applicant could not qualify on grounds of merit.

11. Thus the OA is disallowed. No order to costs

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 20th day of August, 2018

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