

**CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI
CIRCUIT BENCH SITTING AT NAGPUR**

ORIGINAL APPLICATION No.302 OF 2017

Dated this Thursday, the 14th day of December, 2017.

**Coram: Hon'ble Shri Arvind J. Rohee, Member (J)
Hon'ble Shri R. Vijaykumar, Member (A)**

Sudatta S/o Gangadhar Kamle,
age about 32 yrs
Occ : service (Points Man 'A' Grade),
Central Railway
R/o Plot No.70 Nalanda Nagar,
Bhagwan Nagar, Nagpur. **.. Applicant**

(By Advocate Smt. Rashi Deshpande) .

Versus

1. Union of India,
through its General Manager,
Central Railways,
CST Mumbai - 01.
2. Divisional (Personnel) Railway Manager,
Central Railway, Kingsway Road,
Nagpur 440 001.
3. Assistant Personnel Officer,
Central Railway Kings Way Road,
Nagpur 440 001.
4. Station Manager, Central Railway,
Butibori, Distt. Nagpur 441 122.
5. Station Manager,
Central Railway Umred,
Distt. Nagpur 441 203. **.. Respondents.**

(By Advocate Shri Alok Upasani) .

O R D E R (ORAL)

Per : Shri A.J. Rohee, Member (Judicial)

Taken up today by urgent circulation, at
the end of the Board for admission and since
interim relief is sought.

2. Heard Smt. Rashi Deshpande, learned Advocate for the applicant. We have carefully perused the case record.

3. The applicant is presently working as Pointsman 'A' Grade in Central Railway with the respondents at Umred in Nagpur District. He was initially appointed as Assistant Pointsman on 12.03.2014. He was then transferred to Umred in Nagpur Division as Pointsman 'A' Grade on 13.06.2017.

4. In pursuance of the notification dated 12.07.2017 (Annexure A-3) issued by the respondent No.3 to fill up the vacant posts of "Goods Guard", PB-1 Rs.5,200-20,200/- plus Grade Pay Rs.2,800/- against 15% Limited Departmental Competitive Examination (LDCE) Quota in Operating Department, the applicant applied for the said post since he was eligible. He qualified the written test vide result dated 28.11.2017. Prior to that all the candidates, who were found eligible to appear in written test were called upon for medical examination on 16.10.2017 at Nagpur. However, it is stated that the respondent No.5 under whom the applicant was then working did not relieve the applicant on that day on the ground of shortage of staff. For this reason, the applicant could not appear for the

medical examination.

5. After making correspondence with the Higher Authorities, the applicant was called upon to appear for medical examination on 08.12.2017. He accordingly appeared and was declared fit in Aye two category. However, before the Medical Fitness Certificate is forwarded and reached the office of respondent No.3, a panel was published on 11.12.2017 (Annexure A-1), in pursuance of the recommendation of the Selection Committee Meeting held on 07.12.2017. A panel of 54 unreserved category candidates, three Scheduled Caste Category Candidates and six Scheduled Tribe Category Candidates was declared, ofcourse to the exclusion of the applicant.

6. The present OA is, therefore, filed on 14.12.2017 seeking the following reliefs :-

“8.a. Direct the respondents to consider and include name of the applicant in the panel dt.11.12.17, Annexure 1, for the post of Goods Guard, GP 2800 (Matrix Level 5) (Safety Post) 15% LDCE Quota in operating Department.

8.b Direct the respondents to keep One post of the Goods Guard GP 2800 (Matrix levle 5) (safety post) be kept vacant and consider the candidature of the applicant for the said post.

8.c. Any other relief which this Hon'ble Court deems fit and proper under the facts and circumstances of the case.”

7. At this stage, Shri Alok Upasani, learned Standing counsel for Railways appears for

the respondents. Heard him also.

8. It is obvious from record that the applicant was not at fault in not attending the Medical Examination scheduled on 16.10.2017 since he was not relieved / permitted by the respondent No.5. Subsequently, the respondents permitted the applicant to appear in the Medical Examination, which was held on 08.12.2017. However, by that time, the Selection Committee Meeting was held and panel dated 11.12.2017 was also published as stated earlier. It is pointed out by the learned Advocate for the applicant that the notification was issued to fill up 54 General vacancies, three Scheduled Castes and eight Scheduled Tribes vacancies in all 65.

9. It is obvious from perusal of the select panel that two vacancies of Scheduled Tribes were kept unfilled for candidates at Serial Nos.5 and 6 in the Panel, belonging to Scheduled Tribe, it is specifically stated that they were shown at merit position 87 and 89 respectively and have been picked up by lowering down the merit list as there remains shortfall against the Scheduled Tribe vacancies. It is also stated that these two Scheduled Tribes candidates have obtained more than 60% marks in written test as well as in aggregate.

10. Considering the peculiar facts and circumstances of the case, it is obvious that the applicant was not at fault for failing to attend the medical test scheduled on 16.10.2017 and he was subsequently permitted by the respondents to attend it on 08.12.2017 and he was found medically fit in Aye two category. However, before his Medical Examination Report reached the respondent No.3, the meeting of the Selection Committee was already over and panel was also published. Since two vacancies remained unfilled although from the Scheduled Tribe category, this Tribunal is of the considered view that the OA can be disposed of by issuing appropriate directions in the matter.

11. In view of above, the respondent no.2 and 3 are directed to consider the applicant's case for promotion to the post of Goods Guard looking to his merit position in the written test and result of the medical examination undergone by him on 08.12.2017.

12. If the applicant is found fit for promotion post, the respondents are directed to pass the appropriate order in accordance with law laid down on the issue of reservation in promotion.

13. The above exercise shall be carried out

within a period of four weeks from today and the order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to take appropriate steps in the matter, if his grievance still persists.

14. The OA stands disposed of with the above directions at the admission stage with no order as to costs.

15. Registry is directed to supply certified copy of this operative order to both the learned Advocates for the parties immediately for taking appropriate steps in the matter.

(R. Vijaykumar)
Member (Administrative)

(Arvind J. Rohee)
Member (Judicial)

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