

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. 050/00590/2014

**Reserved on- 01.09.2017.
Date of pronouncement 22.11.2017**

CORAM

Hon'ble Shri A.K. Upadhyay, Member [A]
Hon'ble Shri J.V. Bhairavia, Member [J]

1. Bhagdeo Singh son of late Ugeshwar Singh, Ex-Pointsman Under Station Manager, East Central Railway, Sahdei Resident of Village/Post Bahuara Via-Biddupur District- Vaishali-844502 (Bihar).

.....Applicant

By Advocate : Shri M.P.Dixit

Versus

1. The Union of India through the General Manager East Central Railway, Hajipur, District- Vaishali (Bihar).
2. The General Manager (P), East Central Railway, Hajipur, District -Vaishali (Bihar).
3. The Divisional Railway Manager, East Central Railway, Sonpur, P.O.- Sonpur, District-Saran (Bihar).
4. The Senior Divisional Personnel Officer, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar)
5. The Senior Divisional Operating Manager, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar).
6. The Senior Divisional Financial Manager, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar)

.....Respondents

By Advocate: Shri Mukundjee

Shri S.K.Ravi.

O R D E R

Jayesh V. Bhairavia, M [J]: The applicant in this O.A is aggrieved by non-inclusion of his name in the promotion list dated 04.10.2013 and challenges the rejection letter dated 18.06.2014 (communicated under RTI). As such, he prays for the following relief(s) in terms on para 8 of this O.A.:-

“[8.1] That your Lordships may graciously be pleased to call for the Original Selection Proceeding including Answer sheet and Service record of applicant and said 13 persons of Annexure A/3 in the ends of justice and also for confirming the statement of applicant about manipulation/allotting lesser marks/superior service record than other 13 persons.

[8.2] That your Lordships after perusal of the said documents and after being finding the statement of applicant as correct may

graciously be pleased to set-aside the impugned reason shown in the letter dated 18.06.2014 as contained in Annexure A/4.

[8.3] That the respondents further be directed to include the name of applicant also in the final panel dated 04.10.2013 at part with said 13 persons shown in Annexure A/3 henceforth.

[8.4] That the respondents further be directed to treat the applicant as promoted from 04.10.2013 like said 13 persons upto the date of his retirement 30.06.2014 with all consequential benefits including arrears of salary and fixation/revision of entire pensionary benefits including pension, interest etc to the post of Goods Guard instead of Points man.

[8.5] Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicants.”

2. The brief facts of the case, as submitted by the applicant, are as below :-

[i] The applicant, namely Shri Bhagdeo Singh was an employee of Railway who retired on 30.06.2014 while serving as Points man, Sahdei Railway Station under the control of East Central Railway, Sonpur Division.

[ii] That, pursuant to a notification dated 16.01.2013, inviting application from the eligible candidates for promotion to the post of Goods Guard against 61 post (30 UR, 26SC and 05 ST). Annexure A/1 refers.

[iii] About 61 candidates have been invited for appearing in written test which was scheduled to be held on 03.08.2013 (Annexure A/2). The name of applicant was at sl.no.30. The applicant appeared in the written test and as per applicant he done very well.

[iv] The respondent no.4 published the final panel on 04.10.2013 in which 13 person from all categories against the said vacancies have been declared successful in which the name of applicant did not find place without any rhyme and reason. The all 13 persons have been posted vide letter dated 20.03.2014

(Annexure A/3). The applicant submits that as per his information from reliable sources, he secured highest marks in the written test and record of service.

[v] Thereafter, the applicant sent representations dated 10.3.2013 and 06.12.2013 but received no reply. When no reply received from the respondent, the applicant sent applications under R.T.I. on 23.01.2014 and 03.03.2014. In reply to which the respondents sent a letter to applicant in which it has been stated that his name could not be included in promotion list dated 04.10.2013 because he did not obtain 60% marks in written examination and also that his service record is quite wrong, baseless, concocted, far from truth.

[vi] L/c for applicant submits that till date he has not received any show cause or charge sheet from the department and also never been punished. L/c for applicant also submits that some of the employee in select list have very inferior service record due to be charge sheeted and punishment. He also submits that out of 61 notified posts (30 UR, 26 SC and 05 ST), only 13 persons from all category have been empanelled and a large number of posts have been kept vacant.

In sum, the applicant submitted that he has been intentionally deprived his rights which is arbitrary and bad in law; hence the reliefs prayed for in para 8 of this O.A.

3. The respondents, through their written statements, have submitted as below :-

[i] That the applicant was working in Sonpur Division and pursuant to a notification dated 16.01.2013, had applied for the post of Goods Guard in Scale Rs.5200-20200/- + Grade Pay 2800/- Out of 61 vacant post, 61 official were found eligible for the said selection. Only 54 candidates (including the applicant) have appeared in the written examination held on 03.08.2013. Only

14 candidates were declared passed in the written examination.

The applicant declared unsuccessful due to securing less than 60% marks in professional ability.

[ii] L/c for respondent submits that as per RBE No. 35/2006 (Annexure R/1 series) and also as per the guidelines for Members of Selection Committee for Non-Gazetted Cadre, circulated by Head Quarter by letter no. ECR/DY.CPO(HRD)/Misc/2009/01 dated 09.12.2009, 60% marks is professional ability is required hence the name of applicant was not included in the list of selected candidates.

[iii] L/c for respondents submits that the statement in para 4.1 and 4.2 of O.A are the matter of record hence there is no need to reply. The result of written examination was published in which 14 those candidates who had secured 60% or above marks (30 out of 50) in the professional ability had been declared successful. The applicant not secured qualifying marks and thus he did not find place in the list of successful candidates.

In sum, the respondents submit that the claims in this O.A are entirely devoid of merit and are not admissible as per applicable rules.

4. No rejoinder to the written statement has been filed.

5.. Heard the parties and considered their arguments/documents/submissions. It can be seen that as per the guidelines of Members of Selection Committee for non-gazetted cadre circulated by Headquarter vide its letter dated 09.1.2.2009 that minimum 60% marks in professional ability is required. The said criteria is also applicable to the recruitment process for the post of goods guard. The notification dated 6.11.2013 was published and in pursuance to it the applicant had applied for the said post, appeared in the said examination and the result of the said examination was published on 04.10.2013 and out of 54 candidates (including the applicant), only 14 candidates were declared pass in the said examination. The applicant was not successful due to not securing minimum

60% marks. Therefore, the respondents have rightly not included the name of the applicant in the selection list for the above stated post. It is brought to the notice that the applicant was superannuated from service on 30.06.2014. This application has been filed on 04.08.2014.

We are of the considered opinion that the applicant is not entitled for any relief in view of the above stated facts and circumstances. The O.A is devoid of merits. Hence, dismissed accordingly. No costs.

(J.V. Bhairavia) M [J]

(A.K. Upadhyay] Member [A]

/mks/