

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00515/2015

Thursday, this the 28th day of February, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

Adarsh M.V., S/o. Vijayan, aged 25 years, Residing at Railway Quarters,
 No. 18A, Near East Police Station, Kollam East Village, Kollam
 District. **Applicant**

(By Advocate : Mr. C. Rajendran – Not present)

V e r s u s

1. Government of India, represented by Secretary to Minister of Railways, Rail Bhavan, New Delhi – 1.
2. The Chairman, Railway Board, New Delhi – 110 001.
3. The Chief Personal Officer (Recruitment Section), Southern Railway, Park Town, Chennai – 600 003.
4. Chairman, Railway Recruitment Board, Tambanoor, Thiruvanthapuram – 695 001.
5. The Divisional Railway Manager, Southern Railway, Divisional Office, Thiruvananthapuram-695 001. **Respondents**

(By Advocate : Mr. Sunil Jacob Jose)

This application having been heard on 19.02.2019 the Tribunal on 28.02.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“i. To direct the respondents to include the applicant in the list of candidates selected for training and appointment to the post of Assistant Loco Pilot which would commence from 7.7.2015 and for appointment thereafter.

- ii. To give a direction to the respondents not to send the candidates from the select list for the training appointment to the post of Assistant Loco Pilot without the application this would commence from 7.7.2015 and for appointment thereafter.
- iii. To declare that the applicant is belonging to Scheduled Cast and comes under the reserved category.
- iv. To grant such other reliefs prayed for in the interest of justice.”

2. The applicant is a B.Tech. (Mechanical) degree holder. He passed the examination of Assistant Loco Pilot on 20th October, 2014 and obtained 12th rank. The total number of candidates in the list was 345 and out of that list 108 candidates among the list had been called for medical examination and they had been selected for the post of Assistant Loco Pilot. These 108 candidates are from serial No. 156 to 345 who are reserved category candidates of the said list. Applicant belongs to the reserved category. He had been sidelined as candidates Nos. 1 to 156 are coming in the merit quota. Even though the name of the applicant is coming under the merit quota since he is belonging to the reserved category he ought to have been selected along with the 108 reserved category candidates. According to the applicant his name should have been included in the first lot itself of 108 selected reserved category candidates. The applicant despite the fact of holding 12th rank did not get selection and appointment. Being aggrieved by this he has approached this Tribunal for redressal of his grievances with above reliefs.

3. Notices were issued to the respondents. They entered appearance through Shri Sunil Jacob Jose who filed detailed counter reply admitting the

factual position and further submitted that this Tribunal in some of the OAs filed by the employees of Chennai, Salem and Palakkad Divisions issued orders against allotting candidates from fresh panel to Trivandrum Division without considering the request for one way inter divisional transfer to Trivandrum. The 3rd respondent as per the interim order of this Tribunal had decided that first preference would be given to those employees who are registered and waiting for transfer to Trivandrum division. 268 employees were registered and waiting for issuance of transfer orders to Trivandrum Division and out of which 7 belong to SC community. It is further submitted by the respondents that pursuance to the order passed by this Tribunal the papers of the registered employees were supplied to the Trivandrum Division. On the date of supply of papers to the division, Trivandrum Division had no vacancies in UR and OBC categories and in SC and ST there were 28 and 3 vacancies respectively. To avoid existence of backlog vacancies in reserved categories, it was decided to supply reserved papers first to fill up the shortfall vacancies. The UR vacancies will be filled by issuing transfer orders on inter divisional request transfer from the registrants from other divisions, duly supplying fresh papers to the concerned divisions to equalize the appointment. Accordingly, 20 SC and 3 ST candidates were allotted to Trivandrum Division from the candidates recruited and empanelled against SC and ST vacancies as per the inter se merit of those charged against the reserved vacancies. Since no UR and OBC vacancies were available at Trivandrum Division, no candidates empanelled against UR and OBC vacancies were allotted as they are to be treated as UR candidates in respect of the said empanelment. As per

Annexure R1 the reserved candidates empanelled on their own merit should be treated as UR and they should not be adjusted against the quota reserved for SC/ST. Respondents further submitted that candidates who secured position on the panel on merit without availing any relaxation admissible to SC/ST and OBC shall not be treated as reserved candidates and they will not be adjusted against reserved points. The Hon'ble apex court in ***Indra Sahney v. Union of India*** – 1992 Supp.(3) SCC 217 held that reservations under Article 16(4) do not operate like a communal reservation. It may well happen that some members belonging to say Scheduled Castes get selected in the open competition filled on the basis of their own merit; they will not be counted against the quota reserved for Scheduled Castes and they will be treated as open competition candidates. Therefore, the respondents have implemented the Annexure R1 rule that reserved candidates selected on their own merit shall be excluded from calculation of reservation and to be charged against UR only. There was no vacancy in un-reserved category at Trivandrum division and hence applicant could not be considered for appointment at Trivandrum Division. Respondents pray for dismissing the OA.

4. Heard Mr. Sunil Jacob Jose, learned counsel for the respondents at length and perused the records.

5. It is true fact that applicant had obtained 12th rank in the merit list. Though he belongs to reserved category candidate he was selected by the Railway Recruitment Board for the vacancy of Assistant Loco Pilot of

Trivandrum Division against unreserved category. Since there were no vacancies in unreserved category for Assistant Loco Pilot at Trivandrum Division he could not be considered for appointment. Keeping in view the Railway Board instructions and the judgment cited by the respondents in *Indra Sahney's* case (supra) this Tribunal feels that there is nothing wrong in the action taken by the respondents for non-consideration of selection/appointment of the applicant to the post of Assistant Loco Pilot.

6. Hence, the present Original Application is devoid of merits and it is accordingly, dismissed. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

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APPLICANT'S ANNEXURES

- Annexure A1** - True copy of the identity slip issued for attending the written test on 13.7.2014.
- Annexure A2** - True copy of the panel of candidates for the post of ALP (CEN No. 01/2014) published by 3rd respondent.
- Annexure A3** - True copy of the letter NO. RRB/TVC/CEN/1/2014 dated 30.4.2015.
- Annexure A4** - True copy of the representation dated 30.6.2015.

RESPONDENTS' ANNEXURES

- Annexure R1** - Photocopy of the Railway Board circular dated 6.1.1999 (RBE 1/99).

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