

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/931/2012

Jabalpur, this Wednesday, the 23rd day of January, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

R.C. Mahaur
 S/o Shri Manpal Singh
 Date of Birth 18.08.1968
 Asstt. Material Manager
 Headquarter
 West Central Railway
 R/o 411/4 Nehru Railway Colony
 Howbagh
 Jabalpur (M.P.) 482001

-Applicant

(By Advocate –**Shri S.K. Nandy**)

V e r s u s

1. Union of India,
 Through its General Manager
 West Central Railway
 Indira Market
 Jabalpur (M.P.) 482001

2. Chief Personnel Officer
 Headquarter
 West Central Railway
 Jabalpur (MP) 482001

- Respondents

(By Advocate –**Shri Vijay Tripathi**)

(Date of reserving the order:-12.09.2018)

O R D E R
By Ramesh Singh Thakur, JM:-

This Original Application has been filed by the applicant challenging the order dated 17.09.2012 communicated to him vide order dated 25.09.2012 (Annexure A/1) whereby the applicant's representation has been rejected by the respondent-department.

2. The applicant has sought for the following reliefs:-

"8(i) Summon the entire record from the possession of the respondents for its kind perusal.

(ii) Command the respondents to include the name of the applicant in the select list dated 22.3.2005 (Annexure A/3) by rounding of 14.5 marks secured under record of service. Consequently, applicant be declared selected under relaxed standard in Scheduled Caste category with all consequential benefits and promote the applicant from the date his batch mates of 22.3.2005 select list/panel have been promoted;

(iv) Any other order/orders, direction/directions which this Hon'ble Tribunal deems fit and proper may also be passed in the facts and circumstances of the case to the applicant.

(v) Award cost of the instant lis to the applicant."

3. The facts of the case are that the applicant was initially appointed with the respondent-department on the post of Depot Material Superintendent, Group C w.e.f.03.03.1992. Thereafter, the respondents issued notification dated 10.09.2004 (Annexure A/2) for selection to the post of Assistant Material Manager Group 'B' in the Stores Department of West Central Railway under 70% LGS

quota. Thereafter in pursuance to the notification dated 10.09.2004, notification dated 02.12.2004 was issued and the date of written test was scheduled to be held on 11.12.2004 and date of supplementary test was notified on 18.12.2004. A final list of eligible candidates who were allowed to take part in the selection held for promotion to the post of Assistant Material Manager under 70% LGS quota of Stores Department was issued and 42 General category have been allowed to take part against 14 vacancies meant for unreserved category and five scheduled case candidates were called against four posts meant for SC candidates and in similar manner three Scheduled Tribes candidates were called to take part against 2 ST category posts. In furtherance to the said notification dated 02.12.2004 a written test was conducted by the respondents on 11.12.2004 and viva voce of selected candidates who have qualified in written examination conducted on 17.02.2005.

4. Respondents have issued a notification dated 05.01.2005 notifying the names of the candidates who were found suitable in written examination and were further called to take part in viva voce. Copy of notification dated 05.01.2005 is annexed as Annexure A/3. As per this annexure a merit list is prepared and name of the 12 employees have been placed in the merit list and under the heading of 'Relaxed Standard' names of 18 reserved

category candidates have been notified. The name of the applicant appeared at Serial No.15. The submission of the applicant is that among the list of 18 candidates who were declared suitable under relaxed standard, the applicant was secured highest marks in written examination i.e. more than 50%. Thereafter the respondent-department has issued the final panel/select list dated 22.03.2005 (Annexure A/4). Later on a corrigendum dated 22.03.2005 was issued and in the category of SC, 2 candidates namely Shri Gurudayal and Shri Kanhaiyalal have been placed in the select list by treating them as best amongst failure and in similar manner in ST category one candidate namely Shri R.C. Meena has been declared suitable by treating him best amongst failure. The name of the applicant was not found suitable for promotion under 70% LGS quota to the said Group 'B' post. Thereafter the applicant had preferred application under the provision of Right to Information Act 2005 and has obtained tabular sheet and further note sheets of the entire selection (Annexure A/5). It has been submitted by the applicant that on bare perusal of the same it is clear that the applicant's name has been mentioned at Serial No.26 and applicant has obtained 84 marks in the head of written test out of 150 and 14.5 marks in the head of record of service out of 25 and 4 marks in viva voce out of 25. Thus, the applicant has obtained 102.5

marks. The allegation of the applicant is that the respondents have later on issued a corrigendum letter dated 22.12.2010 and name of one Shri Jagat Narayan has also been included as best amongst failure. Shri Jagat Narayan has obtained 95.2 marks and has been categorized as best amongst failure. It has been further submitted by the applicant that one candidate at Serial No.11 who has been declared suitable under general category has received 14.5 marks under the head of record of the service and has been declared suitable. The respondents have adopted the principle of rounding off and 14.5 marks received by the said employee have been rounded as 15. The applicant has preferred representation dated 25.02.2011 and also preferred series of representations (Annexure A/6) and vide order dated 17.09.2012 (Annexure A/1) has rejected the representation of the applicant.

5. The respondents have filed their reply. In their reply it has been stated by the replying respondents that the WCR headquarter had issued a notification dated 10.09.2004 (Annexure A/2) to fill up the post of Assistant Material Manager Group 'B' in the Stores Department of WCR under 70% LGS quota. The list of candidates who were eligible to participate in the selection was also appended with the notification dated 10.09.2004. As per seniority the applicant also eligible to participate in the selection so his name

has also been included in the list of the candidates appended with the notification dated 10.09.2004. It has been further submitted by the replying respondents that in pursuance to the notification dated 10.09.2004, the date of written test was scheduled on 11.12.2004 and the date of supplementary test was notified on 18.12.2004. The applicant has appeared in the written test along with other candidates for the post of Assistant Material Manager Group 'B'.

6. It is submitted by the replying respondents at the result of written test was declared on 05.01.2005 (Annexure A/3). The applicant has qualified in the written test with relax standard. After passing in the written test, the applicant was called for viva voce wherein the applicant has secured 4 marks out of 25. Thereafter the marks of service record were given wherein the applicant has secured only 14.5 marks out of 25 marks. It has been specifically submitted by the replying respondent that as per Railway Board's letter No.E(GP)88/2/111 dated 20.08.1991, the applicant had to obtain at least 15 marks out of 25 in the record of service but he could obtain only 14.5 marks out of 25. Thus, he could not secure minimum 15 marks in record of service. In addition to this, the applicant has secured only 4 marks in viva-voce out of 25 marks. The applicant had to obtain 30 marks out of total 50 marks (record of service-25marks + viva voce - 25 marks). However, the

applicant has secured only 18.5 marks out of 50 marks. Thus, he was not suitable by the DPC. It has been further submitted by the replying respondents that as per the provisions of RBE No.189/1992 (Annexure R/1) for the selection on the post of Assistant Material Manager Group B against 30% LDCE quota the qualifying marks for SC/ST candidates for non safety categories will be $3/5^{\text{th}}$ of the qualifying marks prescribed for general community candidates in each individual paper. In so far as the viva voce and record of service is concerned, the qualifying marks are to be reckoned for the two processes together. The SC/ST candidates required to secure at least 18 marks therein as against 30 marks prescribed for General community candidates. This is submitted to the condition that they will secure same qualifying marks in Record of service as prescribed for general community candidates. So, the applicant had also failed to secure minimum prescribed 15 marks against record of service.

7. The replying respondents has clearly mentioned that Shri R.C. Meena secured total 91 marks out of 200 and was placed against best amongst failure. Another candidate Shri Jagat Narayan has obtained 61 marks out of 150 in written test, 16.2 marks out of 25 in record of service and 18 marks out of 25 in viva voce. Thus, Shri Jagat Narayan secured total 95.2 marks out of 200 and was

also declared as best amongst failure. Both the above candidates secured more than 15 marks in the record of service in terms of Railway Board's letter No.E(GP)/88/2/111 dated 20.08.1991 and more than 20% marks in viva voce in terms of Railway Board's letter No.88-E(SCT)I/23/1 dated 28.06.1995 (Annexure R/2). Though the applicant has secured total 102.5 marks out of 200 but did not secure at least 15 marks in the record of service in terms of Railway Board's letter dated 20.08.1991 and minimum 20% marks in viva voce in terms of Railway Board's letter dated 28.06.1995. Thus, the applicant was not found suitable by the DPC. Resultantly, the representation dated 09.08.2012 was considered and decided by the respondent-department.

8. The applicant has also filed rejoinder to the reply filed by the replying respondent. The applicant has reiterated his earlier stand taken in the O.A.

9. We have heard the learned counsel for both the parties and have also gone through the record.

10. From the pleadings there is no dispute regarding the notification issued by the respondent-department dated 10.09.2004 (Annexure A/2) to fill up the post of Assistant Material Manager Group B in the Store Department of WCR under 70% LGS quota. There is no dispute that the name of the applicant appeared in the

list of candidates who were eligible in the selection process vide notification dated 10.09.2004. It is also not disputed that the applicant had appeared in the written examination dated 11.12.2004 and 18.12.2004. It is also not disputed that among the list of 18 candidates who were declared suitable under relaxed standard the applicant has secured highest marks in written examination. It is also not disputed that the applicant was called for viva voce and has secured 4 marks out of 25. The applicant has secured 14.5 marks out 25 marks for service record. It is also not disputed that overall applicant has secured 102.5 marks out of 200.

11. As per the reply filed by the replying respondents that as per Railway Board's letter dated 20.08.1991, the applicant had to obtain at least 15 marks out of 25 in the record of service but the applicant could obtain only 14.5 marks out of 25. So he can not secured marks in addition to this applicant secured 4 marks in the viva voce. So the applicant has obtained 18.5 marks out of 50 marks. So the applicant has not been found suitable by the DPC. Moreover, as per Annexure R/1 RBE No.189/1992 for the selection to the post of Assistant Material Manager Group 'B' against 30% LDCE quota the qualifying marks for SC/ST candidates for non safety categories will be 3/5th of the qualifying

marks prescribed for general community candidates in each individual paper. The relevant para of this RBE is as under:-

“6. As regards ‘viva-voce’ & ‘Record of Service’, since the qualifying marks are to be reckoned for the two processes together, the SC/ST candidates are now required to secure at least 18 marks therein as against 30 marks prescribed for general community candidates. This is, however, subject to the condition that they will secure the same qualifying marks in ‘Record of Service’ as prescribed for general community candidates i.e. 15 as provided in Board’s letter dated 20.08.1991 referred to above.”

So the condition that the candidates will secure the same qualifying marks in record of service as prescribed for general community candidates. In addition to this the applicant also failed to secure minimum prescribed 15 marks against record of service. The second contention regarding the reply is clearly submitted that Shri R.C. Meena has secured 91 marks out of 200 and was placed against best amongst failure. It has been specifically submitted by the respondents that Shri Jagat Narayan has obtained 61 marks out of 150 in written test, 16.2 marks out of 25 in record of service and 18 marks of 25 in viva voce. So, Shri Jagat Narayan has secured total 95.2 marks out of 200 and was declared as best amongst the failure. It has been specifically submitted by the respondent that both the candidates Shri R.C. Meena and Shri Jagat Narayan has secured more than 15 marks in the record of service in terms of Railway Board letter dated 20.08.1991 and more than 20% marks

in viva voce in terms of Railway Board's letter dated 28.06.1995. though the applicant has secured 102.5 marks out of 200 but he did not secure at least 15 marks in the record of service in terms of Railway Board's letter dated 20.08.1991 and minimum 20% marks in viva voce in terms of Railway Board's letter dated 28.06.1995.

12. In view of the above, we are of the view that there is no ambiguity and illegality in the impugned order dated 17.09.2012 (Annexure A/1).

13. Resultantly, this O.A. is dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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