

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/00213/2013

Date of order: 12.6.2019

Present: Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. Subrata Baidya,
Son of Sri Sunil Chandra Baidya,
Aged about 34 years,
By Occupation - Service Holder,
Working as Technician Gr. II,
Under the SSE/C&W (Mechanical),
Posted at Nimpura as Fitter in
Kharagpur Division of
South Eastern Railway,
Residing at Village : Bhabanipur,
P.O. Kharagpur,
District : Paschim Medinipur - 721301.
2. Krishnendu Sarkar,
Son of Sri Bipin Chandra Sarkar,
Aged about - 35 years,
By Occupation : Technician Gr. II
Under the SSE/C&W (Mechanical),
Posted in Satragachi as Fitter in
Kharagpur Division of
South Eastern Railway,
Residing at :
C/o. Sri Chittaranjan Samanta,
Jagacha Phoolbagan, P.O. Govt. of India
Press Colony, P.S. Jagacha,
District : Howrah - 711 112.

.. Applicants

- VERSUS -

1. Union of India through the
General Manager,
South Eastern Railway,
11A, Garden Reach Road,
Calcutta - 700 043.
2. The Chief Mechanical Engineer,

South Eastern Railway,
11A, Garden Reach Road,
Calcutta - 700 043.

3. The Divisional Railway Manager,
Kharagpur Division,
Kharagpur, South Eastern Railway,
Kharagpur,
Dist. - Paschim Medinipur,
Pin : 721 301.
4. The Additional Divisional Railway
Manager,
Kharagpur,
South Eastern Railway,
Kharagpur,
District : Paschim Medinipur,
Pin : 721 301.
5. The Sr. Divisional Personnel Officer/
The Divisional Railway Manager
(Personnel),
Kharagpur Division, Kharagpur,
South Eastern Railway,
Kharagpur,
Paschim Medinipur - 721 301.
6. The Divisional Personnel Officer,
Kharagpur Division,
Kharagpur,
South Eastern Railway,
Kharagpur,
District : Paschim Medinipur - 721 301.
7. Anil Prasad,
Technician Gr. I/Fitter
Under SSE (C&W)/Santragachi now
posted
At WP/RWP/Patna.

.. Respondents

8. Balaram Sahoo,
Technician Gr. II/Fitter,
Under SSE (C&W)/Nimpura,
S.E. Railway/Kharagpur Division.

9. Tarun Bagish,
Technician Gr. I/Fitter
Under SSE/(C&W)/Santragachi/
S.E. Rly./KGP. Division.
10. Rajiv Kumar Mishra,
Technician,
Gr. - II/Fitter
Under SSE (C&W)/Santragachi/
S.E. Railway/KGP Divn.
11. Santosh Kumar Panda,
Technician Gr. II/Fitter
Under SSE (C&W)/Nimpura/
S.E. Railway/KGP Divn.
12. Satyabrata Pradhan,
Technician Gr. II/Fitter
Under SSE (C&W)/Nimpura/
S.E. Railway/KGP Divn.
13. Ratikanta Mohanta,
Technician Gr. II/Fitter
Under SSE (C&W)/Nimpura,
S.E. Railway/KGP Division.

..... Proforma Respondents

For the Applicants :

Mr. C. Sinha, Counsel

For the Respondents :

Mr. B.P. Manna, Counsel

For the Proforma Respds. :

Mr. A.P. Deb, Counsel

ORDER (Oral)

Per Mr. Justice L. Narasimha Reddy, Chairman:

The applicants were working as Technician Gr. II in the South Eastern Railway in the year 2012. Promotion from the post is to the post of Jr. Engineer (JE) in the pay scale of Rs. 5000-8000/- to the extent of 25% apprentice quota. The

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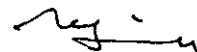
cases of the applicants were considered along with other eligible candidates. The process involved conducting of written test for 50 marks and evaluation of ACRs, service records and educational qualification for 30 marks. There is also a stipulation that the candidate must secure minimum of 60% marks. The applicants were not selected since they did not secure the minimum marks.

2. This O.A. is filed challenging the action of the respondents in not selecting the applicants. It is stated that the evaluation itself was defective and the entire exercise was arbitrary in nature.

3. The respondents filed a counter affidavit opposing the Original Application. It is stated that the entire process was conducted objectively and at every stage, the prescribed procedure and the relevant rules were followed. The respondents stated that on evaluation of the overall merit, the applicants did not come up to the minimum level and, accordingly, they were not selected.

4. We have heard Mr. C. Sinha, learned counsel for the applicants, Mr. B.P. Manna, learned counsel for the official respondents and Mr. A.P. Deb, learned counsel for the proforma respondents.

5. Though the applicants have raised several contentions as regards the evaluation of their merit, we are not convinced to accept the same. Their performance in the written test cannot be the subject matter of judicial review. Further, the applicants are not able to point out that the assessment of



their ACRs, educational qualification or service records were done improperly.

6. Across the Bar, learned counsel for the applicants submitted that the applicants belong to Scheduled Caste category and there exist several orders providing for relaxation of the minimum marks. Reliance is placed upon a memo dated 6.10.70. We decline to take the same into account at this stage. The reason is that, the applicant did not rely upon the memo in the O.A. and thereby the respondents did not have an opportunity to address the same. The question as to whether the said memo is still in vogue or whether any modifications were effected and whether the posts in question are covered by the same, needs to be examined. Another aspect is the impact of extension of such benefit, on the other selected candidates. It is only when the applicants submit a representation in his behalf, that the respondents would have an opportunity to deal with the same in detail, and a proper exercise can emerge.

7. We, therefore, dispose of the O.A., leaving it open to the applicants to make a representation invoking the memo dated 6.10.70. If such a representation is made within 4 weeks from the date of receipt of a copy of this order the respondents shall examine the various legal and factual aspects in relation thereto and take necessary decision within a period of two months thereof. We also make it clear that since the applicants claim to be SC candidates, the occasion to grant

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them relief would arise if only the candidates selected against SC vacancies are less meritorious than the applicants.

There shall be no order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Justice L. Narasimha Reddy)
Chairman

SP

