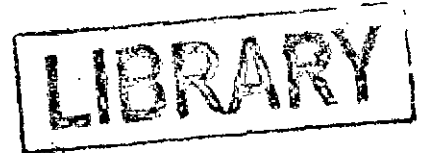


**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**



O.A. 242 of 2014

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Sri Umashankar Shaw,
Son of Late Ramlal Shaw,
Aged about 47 years;
Working as Cabin Master
Under SSUkhra, Asansol,
Eastern Railway,
Residing at Rabindra Pally,
C/o. Biswanath Chakraborty,
Station Road, Ukhra, Burdwan.

..... Applicant.

Versus

1. The Union of India,
Service through the General Manager,
Eastern Railway, Kailaghat Street,
Kolkata – 700 001.
2. The Divisional Railway Manager,
Eastern Railway,
Asansol.
3. The Senior Divisional Personnel Officer,
Eastern Railway,
Asansol.

..... Respondents.

For the applicant : Mr. B.K. Chatterjee, Counsel
Mr. M.K. Bandyopadhyay, Counsel

For the respondents : Mr. A.K. Guha, Counsel

Reserved on : 19.06.2019

Date of Order : 6.8.19.

ORDER**Per : Bidisha Banerjee, Judicial Member**

Aggrieved by non inclusion in the select list for promotion to Goods Guard,
this application has been preferred to seek the following reliefs:

"8.(a) For an order directing the respondents concerned to give the applicant his due promotion to the post of Goods Guards in PB-1 Rs. 5,200 – 20,200/- + Rs. 2800/- G.P. w.e.f. the date when the other selected candidates as per selection list dated 18th September, 2013 had been joined.

(b) For an order directing the respondents concerned to include the same of the applicant in the panel dated 18th September, 2013 for promotion to the post of Goods Guards with all consequential benefits.

(c) Any other order or orders or further order or orders may deem fit and proper."

2. The facts in a nutshell go thus:

A notification bearing No. E(T-1)/ Goods Guard/GSQ/13 dated 10.04.13 was published calling for options from amongst the eligible serving Group C employees of Transportation and Commercial department, for formation of a panel to the post of Goods Guard against 60% General Selection Quota of 38 vacancies (UR-26, SC-07, ST-05). In response to which 187 candidates (UR-152, SC-23, ST-12) were found eligible. Written test was held on 29.06.13 followed by another written test on 16.07.13, for the candidates who could not appear in the earlier written examination held on 29.06.13.

The selection for the post of Goods Guard against 60% General Selection Quota is classified as general selection post and is filled up through written examination followed by scrutiny of record of service. AS per instructions contained in RBE No. 35/2006, (R/5) marks have been distributed for General Selection as under:-

a)	Professional Ability	50
b)1	Record of Service (based on 3 years ACRs/WRs and marks distributed as per CPO/E.Rly/Kolkata vide SL Circular No.1-1/2008), (R/3)	30 – (Outstanding – 10 Very Good - 08 Good - 06 Average - 04
b)2	In addition, the entries made in SR regarding punishment given have been taken into consideration. For major penalty and minor penalty during the last three years, 1(one) mark is to be deducted for major penalty and 0.5 mark for minor penalty as per CPO/E.Rly / Kolkata vide SL Circular No. 150/2002), (R/4)	

	Total	80
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Pursuant to a judgement of Hon'ble Apex Court dated 15.03.96, in M. Ram Joy Ram – Vrs- General Manager, South Central Railway & Others reported in 1996 (1) SC-SLJ536, it was decided by the Railway Board that in cases of promotion to general posts in which candidates are called from different categories, whether from the same department or from different departments and where zone of consideration is not confined to 03 times the number of staff to be empanelled, panels should be strictly prepared as per merit, with reference to the marks obtained by the candidates in "Professional Ability and Record of Service" subject of usual relaxation of SC/ST staff wherever permissible. Those securing less than 60% in Professional Ability and 60% in aggregate are not considered eligible for inclusion in panel. Further, service records of only those candidates who secure a minimum of 60% marks in professional ability is assessed. Since the final panel is drawn on the basis of merit, there is no scope for erstwhile provision of placement of candidate who secure 80% or more marks, classified as outstanding on the top of the panel vide RBE No. 113/2009.

3. The respondents have averred and indicated that in the instant selection altogether 08 candidates (UR-08) were empanelled in order of merit. For the post of Goods Guard against 60% general selection quota and panel was drawn up in accordance marks obtained by the candidates both in "professional ability" and "record of service". The applicant, Sri Uma Shankar Shaw, Cabin Master under Station Manager, Eastern Railway, Ukhra secured 61 marks out of 100 marks in the written examination. By converting the marks of written examination into 50 marks, his marks on professional ability came to 30.50. Sri Shaw secured 18 marks on record of service. (as he was awarded 'GOOD' as grading in last 3 years Working Reports) and considering the 3 nos. of minor penalty punishments awarded to during the years 2010-11, 2011-12 and 2012-13 1.50 (.5 x 3) marks had been deducted, as per entries on Service Record vide Chief Personnel Officer, Eastern Railway, Kolkata's Sl. applying Circular No. 150/2002 and RBE No. 102/2002. Thus he secured $18 - 1.50 = 16.50$ marks out of 30 marks on Record of Service. Taking into account both the marks of professional ability and record of

24

service he secured 47 (30.50 + 16.50) marks which was below 60% out of total 80 marks.

Since the post of Goods Guard is a safety category post, a candidate is required to obtain 60% in professional ability and 60% in aggregate i.e. 48 marks out of 80 marks for being empanelled, he having failed to obtain 60% marks in aggregate could not be empanelled.

4. According to the applicant (as evident from his written notes of argument) as per working report supplied by the authorities on an RTI application, only 1 minor punishment was imposed on him which was also recorded/awarded on 24.6.2013 i.e. after financial year 2012 ended. The financial year 2012 would mean 1st April 2012 to 31st March 2013. As such, penalty that was awarded on 24.6.13 i.e. during the financial year 2013, could not be taken into account for assessment. That apart, for assessment as per rules, last 3 years working report should be considered and last three years for the selection in question would construe assessment for the years 2010-11, 2011-12, 2012-13 and within 31st March, 2013 but not beyond that date.

5. Applicant would voice his grievance that, in the instant case, the notification for selection of panel for the posts of Goods Guards (Annexure A-1 to the O.A. 242/2014) being issued on 10.4.2013 i.e. in the financial year of 2013-2014, the written examination being held on 29.6.2013, punishment recorded/awarded on 24.6.2013 which was in the same year as that of recruitment year, could not be taken into account for assessment. Therefore his marks would be $30.50 + 18 = 48.50$ and as per selection procedure only 48 marks was required for empanelment for promotion ^Bfrom cabin master to Goods Guard. B

6. Such facts have not been disputed by the respondents.

No previous records of penalty for past three years i.e. 2010 -11, 11-12, and 12 – 13 have been brought on record. We note that the method of allotment of marks for record of service. The extract explicitly spells out that for entries that fall short of being "outstanding" carries lesser marks and the applicant had three "Good" entries in the past three years and not "outstanding" or "Very Good" which must have been taken into consideration while calculating '18' towards record of service. However, Deduction of 1.5 from the total, against three minor penalties doesn't seem to be justified.

7. Therefore, the respondents are directed to recalculate the marks, obtained by the applicant, in strict adherence to rules, by taking into account only such punishments that have been awarded in 2010 – 11, 11- 12, 12 – 13, and publish a fresh panel and grant consequential benefits of promotion, notionally, if nothing else stands in the way.

8. Appropriate order be issued by 2 months from the date of receipt of a copy of this order.

O.A. is thus disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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