

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. OA 316 of 2013

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jayati Chandra, Administrative Member

ARVIND KR. SINGH

VS

UNION OF INDIA & ORS. (E.RLY.)

For the applicant : Mr.A.K.Bairagi, counsel

For the respondents : Mr.S.K.Das, counsel

Heard on : 5.2.2016

Order on : 11.3.16

O R D E R

Ms.Bidisha Banerjee, J.M.

Heard both the Id. Counsels.

2. The applicant has challenged the selection held vide notification dated 15.4.10 for filling up vacancies to Loco Inspector (Elect/TRS) in Pay Band Rs.9300-34,800/- with GP Rs.4600/-. The said notification specified that Running Staff posted as Power/Crew Controller who are not medically decategorised and who did not have the requisite 75,000Km of actual driving experience will not be eligible to be considered for the post of Loco Inspector with the proviso that the short fall had to be made good by them by being deployed on Foot Plate duties prior to being posted to work as Loco Inspector.
3. The grievance of the applicant in a nutshell is that he appeared for a written examination held on 8.9.10 but he did not figure in the list of selected candidates whereas ineligible candidates were favoured. He has therefore questioned the correctness of the selection on the ground that persons who did not fulfil the eligibility criteria have been selected by the authorities in a pick and choose manner. He has termed the entire selection as illegal, irregular and has sought for quashing of the panel dated 13.1.11 where from he was left out and sought for his consideration instead.

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4. The respondents have dispelled the claim on the ground that the applicant failed to qualify as per merit and so he was not selected. They have submitted that the selection was held in scrupulous observation of the instructions as contained in RBE 35/06 wherein the marks distributed for general selection was

a)	Professional ability	50
b)	Record of service	30
	Total	80

They have further clarified that pursuant to the decision rendered by the Hon'ble Apex Court on 15.3.96 in ***M. Ram Joy Ram -vs- General Manager, South Central Railway [1996 (1) SLJ 536]*** it was decided by the Railways that in cases of promotion to general posts in which candidates were called from different categories, whether in the same department or from different departments and where zone of consideration was not confined to 03 times the number of staff to be empanelled, panels would 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 where permissible. Those securing less than 60% marks in professional ability and 60% marks in aggregate would not be considered for empanelment. Further, Service Records of only those candidates who secured a minimum of 60% marks in professional ability would be assessed. Since the final panel had to be drawn on the basis of merit, there would be no scope for erstwhile provision of placement of candidates who secured 80% or more marks classified as outstanding and placed on the top of the panel vide RBE NO. 113/09.

They have further submitted that the applicant, Electric Loco Pilot/Pass under Sr. Divisional Electrical Engineer/Operation, Eastern Railway, Asansol though qualified in the written examination, could not secure 60% marks in the aggregate taking into the account the marks of professional ability and record of service for which he could not be considered for empanelment.

5. The Id. Counsel for the applicant would join issue to submit that the applicant was ousted on the basis of un-communicated adverse gradings. The

ld. Counsel banked upon Rule 219 of IREM Vol. I which provided the parameters of selection as follows :

Marks	Maximum Marks	Qualifying
1) Professional Ability	50	30
2) Personality Address, Leadership and Academic Qualification	20	
3) Record or Service	15	
4) Seniority	15	

However, the position is not correctly depicted as RBE 35/06 would be holding the field.

6. Further he would make a tenuous effort to contend that the candidates who had not completed 75,000 Km actual driving experience but only on Foot Plate were given benefit of promotion violating RBE instructions.

Ld. Counsel for the respondents at this juncture would draw our attention to the provisions of the Railway Board which would allow Foot Plate duties to be counted in place of actual driving experience and in addition to same to make good the shortfall.

7. ~~On the contrary~~ The respondents have also categorically stated in their reply that the selected candidates P.M.Chakraborty and Gopal Chatterjee who were alleged to be favoured by the respondents, were empanelled in accordance with their merit position taking into account their overall marks of professional ability and record of service on completion of 75,000 Km of actual driving experience. As such no infirmity could be gathered in selecting the candidates who fell short of actual driving experience of 75,000 Km.

8. In regard to ouster of the applicant on the basis of un-communicated adverse remarks no facts have been pleaded or materials brought on record by the applicant, to substantiate his contention that the ACRs that were taken into consideration by the Selection Committee were in fact the un-communicated adverse ACRs or that the applicant was wrong^{ed} vis-a-vis the other selected candidates. However, the respondents in their reply are conspicuously silent in

regard to allotting marks on the basis of un-communicated adverse remarks and whether the applicant ^{was} ~~were~~ entitled to communication of such gradings prior to their being acted upon.

9. In view of such, we dispose of the OA with a direction on the respondents to issue a reasoned and speaking order indicating whether the respondents had allotted marks on record of service taking into account un-communicated adverse gradings and whether the gradings were adverse and as such they were required to be communicated for representation prior to such gradings being acted upon. Let a reasoned and speaking order be issued within two months from the date of communication of this order.

10. The OA is accordingly disposed of. No order is passed as to costs.

(JAYATI CHANDRA)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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