

**Central Administrative Tribunal
Madras Bench**

OA/310/01121/2019

Dated the 1st day of October Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

Ganesamoorthy.G,
S/o M.Gurunathan,
No.352, 13th Street,
Ex-Servicemen Colony,
Golden Rock,
Trichy 620004. .. Applicant
By Advocate **M/s.D.Veerasekaran**

Vs.

1. The Director General,
Railway Health Service,
Railway Board,
3rd Floor, Prakathy Maithan,
Metro Station Building,
New Delhi 110001.
2. The General Manager,
Southern Railway,
G.M.Building,
Park Town,
Chennai 600003.
3. The Principal Chief Medical Director,
4th Floor, Moore Market Complex,
Southern Railway, Park Town,
Chennai 600003.
4. The Principal Chief Personnel Officer,

Southern Railway,
G.M.Building,
Park Town,
Chennai 600003. .. Respondents

By Adovacte M/s.K.Vijayaragavan

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OA is filed seeking the following relief:-

“.....to call for the records relating to Notification for filling up vacancies of Junior Clerk in Pay Matrix Level 2 of 7th CPC Pay Matrix (GP Rs.1900/-VI PC) against 33 1/3% promotional quota in Medical Department, Southern Railway issued in No.P(S)535/VIII/Promotion/Jr.Clerk/Vol.I on the file of the 4th respondent dated 09.5.2019 and quash the reply given by the 4th respondent dated 01.7.2019 in respect of the applicant on the representation given by the applicant and consequently direct the respondents to permit the applicant for submitting the application for the selection to the said post and to permit him to participate in the written examination and thus render justice.”

2. The admitted facts of this case is as follows:-

The applicant joined the respondents as Safaiwala (House-Keeping Assistant) in the year 2012 in Trichy Division. He has served as Safaiwala till 28.2.2019. Thereafter, he was posted as Hospital Attendant in the same pay scale as per order dated 01.3.2019. The respondents had issued a notification for filling up the vacancies of Junior Clerk in the Pay Matrix level-2 of 7th CPC (GP Rs.1900/-) against 33 1/3% promotion quota in the Medical Department of Southern Railway on 09.5.2019. According to the applicant, as per letter PBC No.59/2017 dated 06.5.2017 the applicant is eligible to apply for the post of Junior Clerk in the Pay Matrix level-2 (GP Rs.1900/-) as per the said notification. According to the applicant, any Group 'D' employee who has the required service can apply for the post. When the applicant

and others sought for filing an application for the post of Junior Clerk, the Office Superintendent refused to receive the application and informed that the applicant is not eligible. The 4th respondent issued an order rejecting the representation as Annexure A6 dated 04.9.2019. According to the respondents, the post of Junior Clerk is to be exclusively filled up by Safaiwala as per letter PBC 60/2017. According to the applicant, the decision of the respondents is arbitrary and violative of Article 14 of the Constitution. According to the applicant, as per para 189 of IREM Vol.I “Railway servants erstwhile Group 'D' categories for whom no regular avenue of promotion exists, 33-1/3% of the posts in the lowest grade of Commercial Clerks, Ticket Collectors, Trains Clerks, Office Clerks, Stores Clerks, etc. are eligible for promotion on completion of 3 years continuous service, which is relaxable for SC/ST employees who are eligible on completion of probation in recruitment grade, which is 2 years.” The applicant has produced the said letter on 21.4.2017 as Annexure A2. According to the applicant, the post of Safaiwala and Hospital Attendant are of equal pay scale and they all belong to the category of Group 'D' post. So, all are entitled for consideration for promotion as Junior Clerk as per para 189 of IREM.

3. The respondents entered appearance and filed a detailed reply admitting the above facts but stating that the post of Safaiwala in the Medical Department does not have any promotional avenue and as per IREM 189, those Railway servants in Group 'D' categories for whom, no regular avenue of promotion exists, 33-1/3% of posts in the lowest grade of Commercial Clerk, Ticket Collector, Train Clerk, Office Clerk, Stores Clerk etc., should be ear-marked for promotion. The respondents had

appointed a committee of 5 SAG level officers and 2 representatives from both the employees Federations to review the existing channel of promotion for Safaiwalas/Jamadars and as per the report dated 24.6.2016 the recommendations were accepted and the Railway Board has issued Annexure R2 letter PBC No.60/2017 dated 08.5.2017. As per the said letter "Ministerial vacancies in Medical Department will be exclusively thrown open only to Safaiwala's of Medical Department subject to their fitness in selection etc. against 33 1/3% quota in for which separate selection will be conducted." According to the respondents, they have notified the vacancies as per the letter PBC No.60/2017 and the posts are exclusively kept for Safaiwalas of the Medical Department. According to the respondents, the applicant in this case had volunteered himself for selection to the post of "Hospital Attendant" as per his application dated 15.9.2018 and since the applicant and others were found suitable by the competent authority they were appointed as "Hospital Attendant" on 01.3.19. According to the respondents, they were appointed to the said post on their own willingness and they had assumed the charge of "Hospital Attendant" w.e.f. 01.4.19. According to the respondents, the post of Hospital Attendant has its own promotional avenue as Dresser Grade III with GP 1900/-, Dresser Grade II with GP 2400, Dresser Grade I with GP 2800 and Pharmacist with GP 2800/-. So. According to the respondents, the post of Hospital Attendant has its own regular avenue of promotion and Hospital Attendant will not come under the purview of para 189 of IREM and they are excluded from consideration as per Annexure R2 PBC No.60/2017. After getting transferred to the post of Hospital

Attendant, the applicant cannot claim for applying for the post of Junior Clerk. It is because of that the representation given by the applicant and others were rejected. So, there is no merit in the contention put forward by the applicant in this case.

4. We have heard both sides and perused the records along with the OA. On a perusal of the pleadings and records, we find that the point for consideration is whether a “Hospital Attendant” can apply for the post of Junior Clerk which is reserved for Safaiwalas of the Medical Department. The applicant in this case mainly rely upon the para 189 of IREM for claiming promotion to the post. Para 189 of IREM reads as follows:-

“189. Promotion to higher grades in Group 'C':- Railway servants in Group 'D' categories for whom no regular avenue of promotion exists 33-1/3% of the posts in the lowest grade of Commercial Clerks, Ticket Collectors, Trains Clerks, Office Clerks, Stores Clerks, etc. should be earmarked for promotion. The quota for promotion of Group 'D' staff in the Accounts Deptts. to Group 'C' post of Accounts Clerks will be 25%.”

If we go through the said IREM Rule, it can be seen that Railway servant in Group 'D' category for *whom no regular avenue of promotion exists* 33-1/3% of the posts in the lowest grade of Commercial Clerks, Ticket Collectors, Trains Clerks, Office Clerks, Stores Clerks etc. can be earmarked for promotion. Here, according to the respondents, the applicant has changed over to the post of Hospital Attendant on his own request and the respondents had appointed him as Hospital Attendant as per order dated 01.3.19 and the applicant has joined as Hospital Attendant. According to the respondents, the post of Hospital Attendant has its own regular avenue of promotion i.e. as Dresser Grade III, Dresser Grade II, Dresser Grade I and

Pharmacist. So, the post of Hospital Attendant does not come under the category of Group 'D' category "*for whom no regular avenue of promotion exists.*" Further, we have also come across Annexures R1 and R2 produced by the respondents in this case. If we go through Annexure R1, it can be seen that the Railway Board has considered the lack of promotional avenues for Safaiwalas and Jamadars and a Committee was constituted with 5 SAG level officers and 2 representatives from both the Federations to review the existing channel of promotion for Safaiwalas/Jamadars. The said recommendations were accepted by the Board and it had issued Annexure R2 letter PBC No.60/2017 dated 08.5.2017. It is specifically mentioned in Point No.3 that Ministerial vacancies in Medical Department will be exclusively thrown open only to Safaiwala's of Medical Department subject to their fitness in selection etc. against 33 1/3% quota in for which separate selection will be conducted. It clearly shows that the Committee studied the lack of promotional avenues for Safaiwalas and had recommended the Ministerial vacancies of Medical Department for giving to Safaiwalas' of the Medical Department. Safaiwalas does not have any regular promotional avenue and it is only because of that the Ministerial vacancies of the same department are set apart for the promotion of Safaiwalas. We do not find any arbitrariness or injustice in doing the same. As regards the Hospital Attendants' are concerned, they have their own separate avenues of promotions. The applicant in this case has volunteered for the post of Hospital Attendant and he was considered by the competent authority and he was posted as Hospital Attendant as per order dated 01.3.19 along with 28 other Safaiwalas who were working then. So, the applicant has

come to the post of Hospital Attendant on his own volition and he is expected to get the promotional avenues attached to the same. He cannot revert back to the post of Safaiwala for applying to the post of Junior Clerk. It is only because of that the respondents had rejected the application filed by the applicant in this case. We do not find any arbitrariness or illegality in the notification for the selection of Junior Clerk produced as Annexure A4 and the rejection of the representation given by the applicant and others which is produced as Annexure A6 in this case. There is no merit in the contention put forward by the applicant in this case. There is no merit in the relief sought before this Tribunal. So, we find that the OA is misconceived and it is liable to be dismissed.

5. Accordingly, OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

01.10.2019

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