

**Central Administrative Tribunal
Madras Bench**

OA/310/01750/2013

Dated the 17th day of December Two Thousand Nineteen

P R E S E N T

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

K.Jeyakumar,
Senior Ticket Examiner,
Tuticorin R.S.,
Madurai Division,
Southern Railway. .. Applicant
By Advocate **M/s.Ratio Legis**

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway,
Park Town, Chennai-3.
2. The Divisional Railway Manager,
Madurai Division,
Southern Railway,
Madurai.
3. The Divisional Personnel Officer,
Madurai Division,
Southern Railway,
Madurai.
4. R.Vasanthakalyanakumar
Senior Ticket Examiner,
Madurai Junction,
Madurai Division,
Southern Railway. .. Respondents

By Adovacte **Mr.K.Vijayaragavan (R1-3)**

ORDER

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

The applicant in this case is working as Senior Ticket Examiner in Madurai Division of Southern Railway and the respondents in this case had on 19.7.2013 issued notification calling for volunteers from among Group D staff for promotion to the post of Goods Guard in the pay scale Rs.5200-20200 with Grade Pay Rs.2800/- against the 60% promotional quota. As per the said notification, 1 post is for ST, 8 for SC and 9 posts for UR and the total was 18 vacancies. The applicant had applied for the said post and he had written the examination and he was qualified in the said written examination. As per the selection list dt. 18.9.13, 16 employees were declared to have been recommended for promotion. According to the applicant, the 4th respondent (R4) in this case had secured 81 marks and the applicant herein had secured 83 marks. According to the applicant, the R4 was selected and he was not selected for the post. As per Para 219(j) (iii) of IREM, the panel should be drawn up in the order of merit based on aggregate marks of 'Professional ability' and 'Record of service'. However, a candidate must secure a minimum of 60% marks in 'Professional ability' and 60% marks in the aggregate for coming in the panel. The R4 in this case had secured only 81 marks whereas the applicant got 83 marks in the process. But the respondents had ignored his marks and selected R4 which is against the principles of natural justice. The empanelment of R4 who has secured lesser marks than the applicant is against service jurisprudence. So, the applicant prays for

the following relief:-

“...to call for the records related to the impugned letter No.U/P.608/II/Goods Guard/60% PRQ dated 18.9.2013 issued by the 3rd respondent and to quash the empanelment of the 4th respondent and further to direct the respondents to include the applicant in the empanelment and to pass such other/orders as this Tribunal may deem fit and proper and thus to render justice.”

2. The respondents entered appearance and filed a detailed reply denying the allegations. They admitted the empanelment as stated in the OA and according to them, 9 candidates were selected under UR Category, 7 candidates were selected under the SC Category and none was selected in the ST Category. 1 SC employee was empanelled under UR quota as he stood third in the rank in the selection on his own merits. The applicant is challenging the empanelment of the R4 herein who is empanelled under UR Category. According to the respondents, the mode of filling up of the post is prescribed in Para 124(1) of the IREM Vol.I which is as follows:-

“60% by general selection from amongst serving regular employees with a minimum of three years service working in grade pay(s) 1900/2000/2400 in the categories of Train Clerk/Sr. Train Clerk, Ticket Examiner, Sr. Ticket Examiner, Commercial Clerk, Switchman, Shunting Master II, Lamp Man, Points Man, Cabin Man and Gate Keeper.

15% by LDCE plus shortfall if any against (i) above, from amongst regular, non-ministerial Group 'C' employees with a minimum of 3 years of service, working in grade pay(s) Rs.1900/2000/2400 upto 40 years of age (45 years in the case of SC/ST) and having the qualification of graduation and
25% by direct recruitment quota through Railway Recruitment Board plus shortfall if any against (ii) above and having the qualification of graduation.”

As per the Railway Board instructions dt. 04.2.99 issued after consultation with the

Organised Labour Unions, the various quotas were fixed for selection. Accordingly, they have called for volunteers for promotion on 19.6.09. As per the IREM, "the final panel should be drawn in the order of merit based on aggregate marks of 'Professional ability' and 'Record of service'. However, a candidate must secure a minimum of 60% marks in 'Professional ability' and 60% marks in the aggregate, for being placed on the panel." The letter of the RB is produced as Annexure R3. In this case the total number of declared vacancies was 18 and the breakup of vacancies is SC-8, ST-1, UR-9. The applicant who was working as Ticker Examiner comes under the third group who are eligible for promotion and only 1 post was earmarked for this group of categories as per the decision taken in consultation with the Organised Labour Unions. The applicant applied for the post of Goods Guard and in the written examination dt. 08.9.13 he secured 83 marks out of 100. The R4 got 81 marks in the examination. The 'Record of service' of all candidates were taken and 18 marks were uniformly given. Additional marks were given for educational qualification and awards won by them. Minus marks were given for punishments imposed on the candidates during the period of 3 years prior to the selection. They had given 5 marks for Graduation, 4 marks for HSC qualification and 3 marks for SSLC. They had given 2 marks for each award and minus 2 marks for every punishment. The applicant herein got 18 marks for 'Record of service'. The applicant has passed only 9th Standard and he did not get any additional marks for educational qualification, awards, etc. So, the applicant's marks were 59.5. Since the R4 was Graduate she got 23(18+5) marks for record of service totalling his marks to 63.5. The marks secured

in the written examination alone cannot be considered in the appointment for promotion. There is no discrimination shown to the applicant in this case. The marks given to the applicant is in order and there is no merit.

3. So, the only point to be considered is whether the applicant is entitled to get selected in the place of R4?

4. On a perusal of the pleadings in this case, it can be seen that the selection was undertaken on the basis of Para 124(1) of IREM Vol.I. As per the IREM, the final selection should be drawn up on the basis of merit based on aggregate marks of 'Professional ability' and 'Record of service'. The applicant in this case has passed only 9^{the} Standard and he could not get sufficient marks in the selection. It is only because of that the applicant failed in coming up in the selection. The R4 who was a Graduate got 5 marks extra for the educational qualification and he got more marks than the applicant. The applicant did not reveal this aspect in the OA filed before this Tribunal. Since the applicant belong to Ticket Examiner post there was only 1 post available to consider him. The said post is given to R4 since he secured more marks. It seems that there is no merit in the OA and it is liable to be dismissed. There is nothing on record to show that there had taken place any violation of IREM. There is also no material to show that any illegality has been committed in the selection process. Nothing was brought out to show that the selection was bad in law.

5. In a similar case, the Hon'ble High Court of Madras in WP No.3723/17 dt. 27.11.18 held that giving weightage to educational qualification is not against law when merit is considered as criteria.

6. In the above circumstance, we are of the opinion that there is no merit in the OA and it is liable to be dismissed.

7. Accordingly, we dismiss the OA. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

17.12.2019

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