

**HIGH COURT OF MADHYA PRADESH, PRINCIPAL SEAT AT
JABALPUR**

Writ Petition No.	3538 of 2005 & 15375 of 2012
Parties Name	R.K. Singh and others vs Union of India and others & Prahlad Meena vs Union of India and others
Bench Constituted	Hon'ble Shri Justice S.K. Gangele & Hon'ble Shri Justice Anurag Shrivastava
Judgment delivered by	Hon'ble Shri Justice S.K. Gangele
Whether approved for reporting	Yes/No
Name of counsels for parties	For petitioner: Petitioner No.1-R.K. Singh and petitioner No.5-A.R. Tripathi in person in W.P. No.3538/2005. Petitioner-Prahlad Meena in person in W.P. No.15375/2012 For respondent/Railway: Shri N.S. Ruprah, Advocate in both the petitions. None for the other respondents.
Law laid down	
Significant paragraph numbers	

(O R D E R)
Pronounced on :31.08.2017

1. Before the Central Administrative Tribunal, the petitioners challenged the order of selection and promotion pursuant to notification dated 26.02.2004. The petitioners also prayed some

other reliefs. As controversy involved in both the petitions are similar in nature, both the petitions are tagged together and heard together. Both the petitions are decided by this common order. Facts of W.P. No.3538 of 2005 are being taken into consideration.

2. The Tribunal dismissed the original application filed by the petitioners. W.C.R. initiated selection process in Accounts Department after receiving due permission from Railway Board to the post of Accounts Officer, Group B post. There were 14 vacancies of Group B posts under 70% category, out of which 3 were reserved for SC/ST category. The W.C.R. selected 45 persons for the aforesaid 14 vacancies for consideration. A provisional *inter se* seniority list of all the supervisory staff working in Accounts Department of W.C.R. was published on 26.02.2004. Objections were invited. Some objections were received from the employees. The management considered the objections and the representations. Revised provisional *inter se* seniority list was published on 22.03.2004. Thereafter, few objection received, which were again considered and replied. Final list was published on 08.04.2004. A list of 45 candidates of three times to the vacancies of 14 posts + 3 candidates on the ground that these 3 candidates were 'twice failed' candidates and they are in the zone of consideration. A written examination was held on 23.04.2004. No objection was raised by any of the

employee. From the date of written examination, upto the date of declaration of result, no representation was received by the management. After written examination, some representations were received questioning the validity of zone of consideration. Those representations were considered and thereafter, the management had selected the candidates. The petitioners challenged the selection of the candidates before the Tribunal. The Tribunal after considering merits of the case, dismissed the application vide impugned order.

3. Before the Tribunal, the selected candidates submitted application and they were made parties, although the petitioners did not add them as a party. The petitioners raised following objections in regard to selection of the candidates:

A. The seniority list was not drawn properly and all the persons who were eligible to be included in the list had not been included. The *inter se* seniority list was prepared on the basis of whims and fancies. The eligible candidates, who were within the zone of consideration, were not called. Petitioners namely Mr. A.K. Tiwari, Mr. O.P. Tamrakar and Mukesh Dubey should have been included in the list. Mr. R.K. Singh, Mr. A.K. Kamble and Mahesh Kumar were reserved category candidates. The minimum qualifying marks have to be relaxed in accordance with the

circular of the Railway Board in case of reserved category candidates. However, this fact has not been followed.

B. The Tribunal has committed an error in overlooking the circular dated 07.08.2002. The combined seniority list should have been prepared multiplying by three. The zone of consideration was improper.

4. The respondents in their return pleaded that a combined seniority list of the feeder categories was prepared for consideration to the promotional grade of Assistant Accounts Officer in accordance with the rules. W.C.R. was a new zone and staff from different seniority units had come together, the preparation of complete seniority list for the separate streams under W.C.R. would have taken time. However, the actual seniority of the persons from the different streams, from each of the different original seniority units was available and this was taken into account. The objections were invited, thereafter, the management had considered the objections and the seniority list was again published. Hence, in our opinion, the objections raised by the petitioners in regard to preparation of list of the employees for consideration and invitation to written examination for the purpose of promotion have no merit. It was three times of the total 14 post. Three candidates who failed twice were also taken into consideration and that cannot be said to be illegal. The case

of Mr. Tiwari was considered and he was excluded from the selection process after receiving objections. He did not represent about his seniority position.

5. The respondents also pleaded that no junior to the petitioners, who belongs to SC/ST category, were called in the selection process. Hence, the claim of the petitioners that the criteria has not been followed is not tenable. The respondents have given cogent reasons in regard to petitioners namely Mr. A.K. Tiwari, Mr. O.P. Tamrakar and Mr. Mukesh Dubey. Three candidates belonging to SC and ST category namely Mr. Bharat Lal Meena, Fateh Singh and H.L. Mahavar were qualified as reserved category candidates and their impanelment is in accordance with law.

6. The respondents have submitted detailed reasons in the return. The Tribunal reexamined the rival contentions and found the selection proper. In exercise of power under Article 227 of the Constitution, the jurisdictional error has to be considered. This Court is not a Court of appeal to consider the evidence in detail to arrive on a different finding. The Court has to consider that whether the Tribunal has committed any error of jurisdiction in arriving on the findings or not. In our opinion, the Tribunal has not committed any error of jurisdiction. The petitioners have already retired and long period has passed after promotion.

7. Considering all the aspects, in our opinion, the Tribunal has not committed any error of jurisdiction in passing the impugned order. Consequently, we do not find any merit in these petitions. Both the petitions are hereby dismissed.

8. No order as to costs.

(S.K. Gangele)
Judge

(Anurag Shrivastava)
Judge

vkt