

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2915 of 2017

- Suraj Kumar Vastrakar S/o Late Mohit Ram, Aged About 44 Years R/o House No. L.I.G. 634, Mangala Dindayal Housing Board Colony, P. S. Civil Lines, District Bilaspur (CG) PIN 495001 (Applicant)

---- Petitioner

Versus

1. Union Of India Through Senior Divisional Officer, Divisional Head Quarter Personnel Department, South East Central Railway, Bilaspur (CG) 495001 (Respondent No. 1)
2. Chief Personnel Officer, South East Central Railway, Bilaspur (CG) 495001 (Respondent No. 2)
3. Chief Examiner Railway Requirement Section, South East Central Railway, G. M. Office Bilaspur (CG) 495001 (Respondent No. 3)

---- Respondents

For Petitioner	:	Shri A.V. Sridhar, Advocate
For Respondents	:	Shri H.S. Ahluwalia, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, CJ

Hon'ble Shri Parth Prateem Sahu,J

Order on Board

Per Ajay Kumar Tripathi, CJ

13/11/2018

1. An original application was filed by the petitioner before the Central Administrative Tribunal, Jabalpur (M.P.) Bench with Circuit Sitting at Bilaspur (CG). This application was registered as O.A. No.925/2014, but the same came to be dismissed vide order dated 25.1.2017 refusing to give any relief to the petitioner by way of a direction to appoint him on a Group 'D' post carrying grade-pay of Rs.1800/- in Pay-band-I.

2. An advertisement was issued by the respondent Railway authorities as part of the special recruitment campaign. The advertisement is dated 15.12.2010. The petitioner was one of the candidates who responded to the said advertisement. He belongs to scheduled caste category and also claims that he is physically handicapped as he has hearing impairment and therefore entitled to benefit of reservation.
3. After the results were notified, the petitioner kept waiting for response or a call for verification of certificates but when he did not hear from the respondent authorities, he applied under the Right to Information Act, 2005 from where the petitioner learnt that he had secured 29.5% marks which the petitioner disputed and asserted that it should be 29.67% marks. Despite such a performance he did not get a call because the respondent railway authorities took a stand that there was a minimum cut off marks in the written examination both for general candidates as well as reserved categories candidates. So far as the general category candidates are concerned, the minimum cut-off in the written examination was 40%, whereas for scheduled castes, scheduled tribe & other reserved candidates it was fixed at 30%.
4. Argument was made by learned counsel for the petitioner that the advertisement issued by the respondent railway authorities, a copy of which is part of the record, nowhere indicated that there would be a minimum cut off marks in the written examination. Terms and conditions of the advertisement however did indicate that a merit list would be prepared on the basis of performance of candidates in the written examination. There were 78 posts which were required to be filled-up in the category of which the petitioner belongs and infact there were not enough candidates who could occupy all the 78 posts. Still the authorities

chose not to fill the posts or invite the petitioner.

5. A stand was taken by the respondent railways both before the Tribunal as well as before the High Court that in addition to the terms and conditions of the advertisement, the guidelines and circulars issued by the Ministry of Railways from time to time are equally applicable and binding upon the parties in the exercise for such recruitment.
6. Broad guidelines for recruitment to Group 'D' staff by railway administration had been issued by the Ministry of Railways way back on 18.7.2005 in which besides other things it has been clearly laid down in Clause 7.4 that result of written examination will be declared based on the Evaluation Agency's report and scrutiny of the records. Minimum pass marks will be 40% for general candidates, 30% for scheduled caste, scheduled tribe and other backward classes candidates.
7. Keeping the above position in mind, the Tribunal did not accept the contention of the petitioner that since the advertisement itself did not indicate such a provision, therefore, the terms of advertisement could not be altered on the basis of such circular.
8. Yet another valiant effort was made on behalf of the petitioner when he argued that in the year 2013 a provision for relaxation upto 2% in the qualifying marks in each category was notified by the respondent Railways. If that relaxation is extended to the petitioner, he would be successful and entitled for consideration and appointment.
9. The Tribunal took note of such an argument, went through DOP&T's clarification dated 8.10.2013 and came to a conclusion that such concession would be prospective in nature and since the petitioner participated in the selection process for the year 2010-11, the benefit of

2% relaxation would not be available to him.

10. Both the grounds, which were negated by the Tribunal do not seem to be erroneous in any manner because the view so taken by the Tribunal on the issue of cut-off marks as well as applicability of the relaxation clause are in conformity with the legal requirements. The order of the Tribunal dated 25.1.2017 is not required to be interfered with.

11. The writ application is accordingly dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-