



W.P.No.3658 of 2020
and W.M.P.Nos.4311 & 8473 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.01.2023

DELIVERED ON : 24.01.2023
CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.3658 of 2020

and

W.M.P.Nos.4311 & 8473 of 2020

1.Union of India,
Owing Railway Board,
Rep. by its Chairman,
Rail Bhawan, New Delhi - 110 001.

2.The General Manager,
Integral Coach Factory,
Chennai - 600 038.

3.The Chief Personnel Officer,
Integral Coach Factory,
Chennai - 600 038.

...Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai - 600 104.



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- 2.S.Ramakrishnan
3.Brijesh.B Emp.No.791906,
C/o.The Principal,
Technical Training Centre,
Integral Coach Factory,
Chennai - 600 038.
4.Kumar.R, Emp.No.697371,
C/o.The Principal,
Technical Training Centre,
Integral Coach Factory,
Chennai - 600 038.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 1st respondent/Tribunal in O.A.No.310/00568 of 2012 on 02.07.2019, and quash the same.

For Petitioners : Mr.V.Radhakrishnan, Senior Counsel
Assisted by Mr.M.Vijay Anand
R1 : Tribunal
R2 : No appearance
For RR3 & 4 : Mr.V.Prakash, Senior Counsel
Assisted by M/s.Ramapriya

Gopalakrishnan

ORDER

(R.HEMALATHA, J.)

This petition has been filed challenging the order of the Central Administrative Tribunal, Chennai in O.A.No.310/00568 of 2012 dated 02.07.2019.



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2.The germane facts of the case in brief are as follows :

The second respondent Ramakrishnan is a Railway employee who joined the Railways on 09.01.1992 as a Khalasi and was working as Inspector Grade - I in quality assurance with effect from 21.08.2009. A notification dated 07.07.2011 for selection of Intermediate Apprentice Mechanic was issued by the petitioners and he being eligible for the promotion / selection applied for the same. There were 30 vacancies under the unreserved category and since it was a merit channel selection of those who had obtained more than 60 marks in the written test and 30 marks in the service record (for a service without any penalty during the last three years) they were ranked as per the total marks obtained and 28 of them were directly through to the new grade. For the remaining two vacancies, there were six candidates all of them having secured equal marks. Therefore, in terms of the para 314 of IREM, Vol.I, relative seniority comes into play when there are more eligible candidates than the actual available vacancies and all of them are placed equally. Thus the third and fourth respondents were selected for the two vacancies due to



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their seniority in terms of date of entry to the present grade (before promotion / selection).

3.The aggrieved second respondent approached the Central Administrative Tribunal, Chennai (first respondent) in O.A.No.568 of 2012 and the same was dismissed on 03.09.2014 vide a common order for related O.A.Nos.677 & 683/2011. O.A.Nos.677 & 683/2011 were also filed by the second respondent challenging the selection for the year 2006-2007 and 2007-2008 respectively for the same post. This order dated 03.09.2014 was challenged by the second respondent in this Court in W.P.No.30170/2014 and this Court vide a common order dated 30.06.2017 on connected similar petitions in W.P.No.30172/2014 & M.P.No.1/2014, set aside the common order dated 03.09.2014 of Central Administrative Tribunal, Chennai and restored the O.A.Nos.677, 683/2011 & 568/2012 to file for fresh consideration on merits and as per law. O.A.Nos.677 & 683/2011 were disposed of vide common order dated 18.02.2019 while O.A.No.568/2012 filed by the second respondent was later allowed by Central Administrative Tribunal, Chennai with



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directions to consider the case of the second respondent on the basis of merit (confidential report) without any reference to seniority, without disturbing the third and fourth respondents and even if it requires creation of supernumerary vacancy. This impugned order is challenged in this petition.

4.The Central Administrative Tribunal, Chennai (first respondent) had arrived at this conclusion based on the contents of the notification dated 07.07.2011 for selection of Intermediate Apprentice Mechanic and pointed out that there was no mention of seniority as a criterion for selection and therefore, the second respondent's confidential report ought to have been given the appropriate weightage instead of adopting seniority as the yard stick.

5.Heard Mr.V.Radhrishnan, learned Senior Counsel assisted by Mr.M.Vijay Anand, learned counsel for the petitioners, and Mr.V.Prakash, learned Senior Counsel assisted by Ms.Ramapriya Gopalakrishnan, learned counsel for the respondents 3 & 4.



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6. Mr.V.Radhkrishnan, learned Senior Counsel assisted by Mr.M.Vijay Anand, learned counsel for the petitioners would contend that when the vacancies are less in numbers and many of them obtain the same marks, the criterion of seniority has to come into play. In fact, according to him, 28 of them who got selected had scored more marks than 60 and only six had scored just 60 marks in written test and 30 in service record. These 28 were straightaway considered only based on merits and only when such a tie situation for the remaining two vacancies got created the need to follow the well laid down procedure of narrowing down to the senior most out of the six arose. Therefore, according to him, there was no bias or wrong procedure adopted and the first respondent had erred in giving an order which was arbitrary.

7.Per contra the learned counsel for the 2nd respondent had contended in the Central Administrative Tribunal, Chennai, that it was absolutely a correct decision to favour him. According to him, the notification dated 07.07.2011 for selection of Intermediate Apprentice Mechanic / Mechanical had not mentioned about the aspect of seniority to



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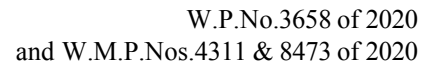
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be considered. Moreover, he added that when the second respondent had very high grade in his confidential report, he ought to have been given preference over the other similarly placed candidates. Instead, all of them were given 30 marks under SR without making any differentiation and had the weightage been given to him, he would have made it. However, there was no representation for the 2nd respondent before this Court.

8. Mr.V.Prakash, learned Senior Counsel, assisted by Ms.Ramapriya Gopalakrishnan, learned counsel for the respondents 3 and 4, contended that they have been selected through proper method and their selection should not be disturbed in any event.

9.The arguments on both sides along with all the documentary evidence were gone into in detail. The circular No.E(GP) 2001/2/69 dated 17.10.2001 issued by the first petitioner which is categorical as to when seniority element has to be applied in promotion. It reads as follows :

"..... it has been decided that if two or more candidates secured equal marks in the aggregate then



The para 314 of IREM, Vol-I reads as follows :

10. Such a rule has been framed only to make a decision in the event of such exigencies. It does not mean that every promotion process would result in a tie situation. Arguing that the element of seniority should not find place in merit channel is not reasonable. When the Service Record marks have to be given, the petitioner have only followed the prescribed procedure of 30 marks to all as two categories of



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employees do not have the system of confidential report and equity has to be applied.

11.The element of merit was there in the marks obtained in the written test. It is not as though these persons qualified without merit. They got same marks causing the tie situation. The selection cannot be done on any other arbitrary manner. There has to be a prescribed procedure. Each candidate cannot dictate as to what the criterion should be followed. Such a scenario will cause chaos and confusion. Therefore, the petitioners were right in not selecting the second respondent. No bias or discrimination can be attributed to such decisions. The relevant portion of the reply statement filed by the petitioners / respondents 1 to 3 in O.A.No.568 of 2012 is extracted hereunder :

".....17.The respondents submits that, in all, 75 employees have qualified in the written test, i.e. 34 employees in general standard, 12 (10 SC and 02 ST) employees under relaxed standard and 29 ST employees under the best among the failed scheme. All the 75 employees were subjected for the second stage of the selection viz. perusal of records by the committee. The distribution of



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marks as per Board's letter No.E(NG) 1/2006/PMI/4 dated 22.03.2006
vide ANNEXURE R-VI is as follows :

<u>Factors/Headings</u>	<u>Maximum marks</u>	<u>Qualifying marks</u>
1. Professional ability	50	30
2. Record of service	30	- *
	-----	-----
Total	80	48
	-----	-----

* No minimum qualifying marks prescribed for Record of Service.

The instant selection of Intermediate Apprentice Mechanic / Mechanical against 25% QSE quota is a general selection. Employees working as Technician Gr.III. Gr.II and Gr.I etc are in the fray. Since Annual Confidential Reports are not maintained for Tech Gr-II and Tech Gr-III employees who were also in the fray, scrutiny of Service Record became the basis for awarding marks to all the 75 employees under the column 'Record of Service' so as to maintain uniformity. Therefore, 30 marks under the column 'Record of Service' has been distributed as follows :

a) Normal SR (i.e.) without penalty - 30 marks



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- 02 marks debited for each
punishment in the preceding
03 yrs. Viz. 01.04.2009 to
31/03/2012.

Note: A Service Record without any penalty for the preceding 03 years was taken as Normal SR. The above formula was applied to all the candidates in the fray.

18. Further, the contention of the Applicant that 30 marks were given to all the candidates for 'Record of Service' is not correct. It is submitted that wherever the employees were imposed penalty in the preceding three years period viz. 01/04/2009 to 31/03/2012 marks were reduced proportionately to the punishments during the said period. In fact, for some candidates who have qualified in the written examination, the marks for record of service was reduced as they have undergone punishment during the last 3 years. Hence, the contention of the Applicant that those with poor record were given a uniform 30 marks against record of service is false and is an attempt to mislead the Court.

19. The number of vacancies notified were 43 (UR-30, SC-9, ST-4) 30 employees were selected against 30 UR vacancies, 9 SC



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employees against 9 SC vacancies and 4 ST employees against 4 ST vacancies. In the event of 2 or more employees securing equal marks in aggregate, the relative seniority position of the employees has been taken to decide the placement. The following six employees secured 60 marks in aggregate.

Sl. No.	Name, Emp. No. Design S/Shri	Qualification	Relative seniority/ position	Marks secured for 80	Remarks
1.	R.Kumar 697371 Tech Gr-I	Act Apprentice DME.	1	60	Empanelled against UR vacancy 29
2.	B.Brijesh 791906 Tech Gr-I	DME, B.Com	9	60	Empanelled against UR vacancy 30
3.	S.Ramakrishnan 715946 Inspector I/Ex-cadre (Tech Gr-I Cadre)	ITI, Act. Apprentice DME	13	60	Not empanelled
4.	K.Suresh Moorthy 805221 Tech Gr-2	DME	51	60	Not empanelled
5.	V.Balakrishnan (SC) 821773, Inspector I (Ex- Cadre)/ Tech Gr-II (Cadre)	Act Apprentice, DME	71	60	Empanelled against SC vacancy 1



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Sl. No.	Name, Emp. No. Design S/Shri	Qualification	Relative seniority/ position	Marks secured for 80	Remarks
6.	N.S.Makeshbabu 827518 Tech Gr-3	ITI, BBA	72	60	Not empanelled

Out of 43 vacancies, 30 are to be filled against UR vacancies. 34 candidates (30 UR + 3 SC + 1 ST) had secured 60% and above in aggregate and thus were eligible to be considered against the 30 UR vacancies. 28 candidates who had secured more than the above 6 candidates were empanelled. For the remaining two vacancies, the above 6 candidates were considered as they have secured 60% marks equally. As the aggregate marks for the above candidates were equal, the senior of the above 6 candidates has to be considered. This is the formula adopted even for Group B selection against Limited Departmental Competitive Examination quota as per Board's letter No.E(GP)2001/2/69 dated 17/10/2001. A copy of the Railway Board's letter dated 17/10/2001 is filed as ANNEXURE R-VII.

As may be seen from the table, Shri.R.Kumar (Seniority No.1) and Shri B.Brijesh (Seniority No.9) were selected against UR vacancies 29 and 30 respectively. Shri.S.Ramakrishnan, the Applicant is from unreserved community. The relative seniority position of Shri.S.Ramakrishnan is 13 which is far below to Shri.R.Kumar and



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Shri.B.Brijesh. Since the vacancies notified for UR is 30, the candidature of Shri.S.Ramakrishnan could not be considered for empanelment as there was no UR vacancies available."

Therefore, there is no infirmity in the decision of the petitioners. Central Administrative Tribunal, Chennai has placed reliance in the decision of the Apex Court in "*M.Ramjayaram Vs. General Manager, South Central Railways*" reported in "(1996) 8 SCC 266". The facts of this case are totally different and cannot be in any manner applied in the present case.

12.In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed. The order of the Central Administrative Tribunal, Chennai in O.A.No.310/00568 of 2012 dated 02.07.2019 is set aside.

(V.M.V.,J.) (R.H.,J.)
24.01.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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Pre-delivery order in
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24.01.2023