

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**THURSDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO: 15603 OF 2008

Between:

J. Rama Naik, S/o Late J. Lakshma Naik, Hindu, aged 42 years, Sr. Section Engineer, P. Way, Ultra Sonic Flaw Detection R/o. Flat NO. 105, Navya Arcade, Geethanagar, Malkajgiri, Hyderabad-47.

...PETITIONER

AND

1. The Railway Board (rep U.O.I), rep by its Secretary, Ministry of Railway, Railway Board, New Delhi.
2. The General Manager, S.C. Railway, Rail Nilayam, Secunderabad.
3. The Principal Chief Engineer, S.C. Railway, Rail Nilayam, Secunderabad.
4. The Chief Personnel Officer, S.C. Railway, Rail Nilayam, Secunderabad.
5. Sri.H.S. Meena, S/o. Not known Working as AEN/C-I, S.C. Railway Raichur.
6. Sri.S.R. Tarola, S/o. Not known Working as AEN/C/CTO, S.C. Railway, Nanded
7. Sri.M.N. Krishnappa, S/o. Not known Working as ADEN/TM, S.C. Railway, Guntakal
8. Sri.R. Srinivasan, S/o. Not known Working as AEN/C S.C. Railway, Guntakal
9. Sri.K. Sambaiah, S/o. Not known Working as ADEN/HQ, S.C. Railway Secunderabad.
10. Sri.K.V.R. Sarath Babu, S/o. Not Known Working as AEN/C, S.C. Railway, Ramachandrapuram, East Godavari District.

...RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ order or direction particularly one in the nature of Certiorari calling for the records leading to passing of order dt. 16-6-2006 in OA No. 401 of 2005 of the Hon'ble Central Administrative Tribunal , Hyderabad and set aside the same and allow the O.A. as prayed for extending promotion as ADEN w.e.f the date on which juniors of the petitioner were promoted to the said post.

Counsel for the Petitioner : SRI.P.B.VIJAY KUMAR

Counsel for the Respondent Nos.1 to 4 : SRI.KALVALA SANJEEV

Counsel for the Respondent Nos.5 to 10 : ---

The Court made the following ORDER

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK**

WRIT PETITION No.15603 OF 2008

ORDER: (per AKS,J)

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner aggrieved by the order, dated 16.06.2006, passed in O.A.No.401 of 2005 by the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short, 'the Tribunal').

2. Heard Sri P.B. Vijay Kumar, learned counsel for the petitioner and Sri Kalvala Sanjeev, learned Standing Counsel, appearing for respondent Nos.1 to 4.

3. Learned counsel for the petitioner had contended that the petitioner was working as Senior Section Engineer in the South Central Railways. He was fully eligible and qualified to be promoted as Assistant Engineer. The South Central Railways issued notification, dated 22.01.2004, for filling up the posts of Assistant Engineers and called for willingness from the eligible candidates to participate in the selection process. The petitioner has responded to

the said notification and appeared for the selection process. The petitioner had secured 103 marks in the written examination. However, he could not get the minimum qualified marks in the viva-voce and record of service. Therefore, the petitioner was not selected to the post of Assistant Engineer. Aggrieved by the same, the petitioner filed the subject O.A. contending that the eligibility should be decided only by taking into account the marks secured in the written examination, but not on the basis of the marks secured in viva-voce and record of service also and sought to direct the official respondents to promote the petitioner as Assistant Engineer by taking into account the fact that the petitioner has secured good marks in the written examination and irrespective of the fact that the petitioner has not secured the minimum qualifying marks in viva-voce and record of service. The Tribunal, *vide* impugned order, dated 16.06.2006, was pleased to dismiss the subject O.A., without appreciating any of the contentions raised by the petitioner. Therefore, appropriate orders be passed in the Writ Petition by directing the official respondents to promote the petitioner as Assistant Engineer by duly taking into account the marks secured by him in the written examination only.

4. On the other hand, the learned Standing Counsel appearing for respondent Nos.1 to 4 had contended that the scheme of selection comprises written test followed by viva-voce and record of service. The candidates should secure the minimum qualifying marks under each head. As, admittedly, the petitioner has not secured the minimum qualifying marks in viva-voce and record of service, the case of the petitioner was not rightly considered for promotion to the post of Assistant Engineer. Therefore, the Tribunal was justified in dismissing the subject O.A. There are no merits in the Writ Petition and the same is liable to be dismissed.

5. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that when the maximum marks and minimum qualifying marks were prescribed in the notification, the petitioner cannot contend that his case has to be considered by taking into account the marks secured by him in the written examination only. Therefore, the Tribunal was justified in dismissing the subject O.A. *vide* impugned order, dated 16.06.2006. In view of the same, this Court is not inclined to interfere with the impugned order passed by the Tribunal.

6. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. One CC to SRI.P.B.VIJAY KUMAR, Advocate [OPUC]
2. One CC to SRI.KALVALA SANJEEV, Advocate [OPUC]
3. Two CD Copies
4. One spare copy

S.A.

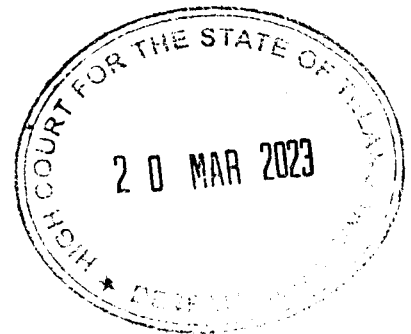
GJPR

HIGH COURT

DATED:19/01/2023

ORDER

WP.No.15603 of 2008



**DISMISSING THE W.P
WITHOUT COSTS.**

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SW MA
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