

(2011) 05 GUJ CK 0004

In the Gujarat High Court

Case No : Special Civil Application No. 3046 of 2011

Jamaluddin N. and Others

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 04-05-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2011) 05 GUJ CK 0004

Hon'ble Judges : V.M. Sahai, J;G.B. Shah, J

Bench : Division Bench

Advocate : Atit D. Thakore, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

V.M. Sahai, J.—We have heard learned Counsel Mr. Atit D. Thakore for the Petitioners.

2. This petition has been filed challenging order dated 27.3.2009 passed by the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad, by which Original Application No. 221 of 2007, filed by the Petitioners, has been dismissed.

3. Five Petitioners are working as Diesel Mechanic-III, Pointman-III and Khalasi under the Respondents. They have passed 6th to 9th standard. The selection notification prescribes the following conditions for educational and technical qualification and age limit:

3. Educational and Technical Qualification: Matriculation pass plus ITI in specific trade/Act apprentice.

Specific Trades are (1) Fitter (2) Electrician (3) Instrument Mechanic (4) Mill Wright Maintenance Mechanic (5) Mechanic Radio and Television (6) Electronic Mechanic (7) Mechanic Motor Vehicle (8) Wiremen (9) Tractor Mechanic (10) Armaule and Coil Winder (11) Mechanic (Diesel) (12) Heater Engine (13) Turner (14) Machinist (15) Refrigeration and Air conditioning Mechanic or Diploma in

Mechanical/Electrical/Electronics in lieu of ITI.

4. Age Limit: Below 35 years in the case of General candidates and below 40 years in the case of SC/ST candidates as on date of notification i.e. 19.4.2007.

4. The Petitioners have relied on Railway Board circular RBE No. 269/87 dated 3.11.1987 to contend that such conditions could not have been imposed. The Respondents on the other hand place reliance on Zonal Railway circular dated 20.5.2005, which refers to correction slip ACS 123. The relevant part of the circular reads as under:

In terms of ACS No. 123 circulated vide PS No. 188/2001 quoted above, posts in the category of Assistant Loco Pilot (then Dsl/Elect. Asstt.) in pay scale of Rs. 3050-4590 should be filled in as under:

(i) 50% from amongst the volunteering Diesel/Electric Loco Fitters of Diesel/Electric loco sheds with three years service failing which Diesel/Electric Loco Fitters will less than three years service but total service of six years and Diesel/Electric Loco Group "D" staff of Diesel/Electric sheds with total service of six years in Diesel/ Electric Loco sheds having the qualification of course completed Act Apprenticeship in Mechanical/Electrical/Electronics Engineering trade or Matriculations with ITI as an additional preferable qualifications with upper age limit of 35 years (40 years in the case of SC/ST).

(ii) 50% plus the shortfall, if any, against (i) above by direct recruitment through the Railway Recruitment Boards.

5. The Tribunal has considered the claim of the Petitioners and has held as under:

5. Para 123 of IREC empowers that Railway Board to issue circulars of General applicability in respect of Group "C" and "D" staff. The Advance Correction Slips to IREM issued by the Railway Board have the force of law. The decision in B.S. Vadera Vs. Union of India (UOI) and Others, refers. There is no challenge to this subsequent instructions laying down the method of recruitment. State of Mysore and Another Vs. P. Narasing Rao, has held that Article 14 and 16 does not exclude laying down the qualifications but there should be a reasonable nexus.

6. We agree with the view taken by the Tribunal and we do not find any illegality in the order of the Tribunal. This petition fails and is accordingly dismissed.