

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/021/690/2015**

HYDERABAD, this the 21<sup>st</sup> day of January, 2020



**Hon'ble Mr. Ashish Kalia, Judl. Member  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

D. Pradeep Kumar,  
S/o. D. Yerakalaiah, aged 29 years,  
Occ: Ticket Examiner,  
O/o. the Chief Ticket Inspector,  
South Central Railway,  
Hyderabad Division,  
Kacheguda R.S.

...      Applicant

(By advocate: Mr. K.R.K.V. Prasad)

Vs

1. Union of India rep. by  
The General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,  
Rail Nilayam,  
South Central Railway,  
Secunderabad.
3. The Divisional Railway Manager,  
South Central Railway,  
Hyderabad Division,  
Hyderabad Bhavan,  
Secunderabad.
4. The Divisional Railway Manager (P),,  
South Central Railway,  
Hyderabad Division,  
Hyderabad Bhavan,  
Secunderabad.
5. C. Narsing Rao, Occ: Points Man -Aq  
(Under training as Goods Guard)  
O/o the Station Manager,  
Wadiaram R.S., South Central Railway.
6. C. Ranganna, Occ: Points Man -Aq  
(Under training as Goods Guard)  
O/o the Station Manager,  
Ullindakonda R.S., South Central Railway.
7. Kamble Samba Baba, Occ: Points Man -Aq  
(Under training as Goods Guard)  
O/o the Station Manager,  
Bolsa R.S., South Central Railway.

...      Respondents

(By advocate: Mrs. A.P. Lakshmi, SC for Rlys)

## O R D E R (ORAL)

**Hon'ble Mr. Ashish Kalia, Judl. Member**



The present O.A. is filed seeking the following reliefs:

Ø.... to call for the records pertaining to Memorandum No.001/TR/15/2015 issued under letter No.SCR/P-HYB/210/TR/15/Goods Gd/60% Dept Q/ Vol.X dated 10.04.2015 and Notification No.SCR/P-HYB/210/TR/15/Goods Gd/60%Dept Q/ Vol.X dated 22.7.2014 and declare the action of the respondent Railways in not including the name of the applicant in the said panel dated 10.04.2015 against one of the unfilled vacancies among the 6 notified vacancies in respect of Commercial Clerk/ Ticket Examiner as illegal, unjust, arbitrary, discriminatory and direct the respondents to include the name of the applicant in the list of suitable candidates against 6<sup>th</sup> notified vacancy of the said category by carrying out suitable revision to the said Memorandum dated 10.04.2015 and grant all consequential benefits to the applicant.Ø

2. The applicant, while working as Ticket Examiner in Commercial department of Hyderabad Division of South Central Railway, responded to a Notification dated 22.7.2014 and applied for the post of Goods Guard. He was found otherwise eligible. He appeared in the written examination and got qualified on 2.12.2014. However, respondents cancelled the said written examination and subsequently conducted another examination for which, the result was declared on 9.4.2015. The name of the applicant figured in the select list at Sl.No.36. The respondents have issued a Memo, enlisting 36 names for the post of Goods Guard as on 10.4.2015. It is submitted that the impugned suitability list is said to have contained 5 candidates against 6 notified vacancies in respect of Commercial Clerk/ Ticket Examiner. As per the applicant, as his name figured at Sl.No.36 of the select list, he is entitled for placing his name in the suitability list as a UR candidate. He has cited the judgement of the Hon'ble Supreme Court in

**M. Nagaraj & Others Vs UOI & Others { 2006 8 SCC 212},** whereby the Apex Court held that there shall not be any reservation for the promotional post.

3. Notices were issued and the respondents put up appearance through their counsel and filed reply. The relevant contentions are re-produced below:

It is submitted that, out of six (06) vacancies earmarked for CC/TE, five (05) vacancies have been filled by 04-UR and 01-SC employees. The SC employee was charged against UR vacancy. All the 05 employees have secured more marks than the applicant. The remaining 6<sup>th</sup> vacancy belongs to SC community which could not be filled up for want of SC employee who secured 60% marks in aggregate.

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First of all the applicant has not challenged the notification when SC/ ST vacancies are notified as per Roster Point based on the Rule of Reservation but, applied to the post advertised in the notification and when he did not come up for the final selection, he raised the issue of Rule of Reservation quoting Sri Nagaraju's case to side track the issue and derive undue benefit. All the thirty three (33) including the SC/ ST employees selected under UR category have scored more marks than the applicant. Therefore, he could not find the place among the 33 employees empanelled under UR category. The remaining selected employees (i.e. Private Respondents No.6 & 7) though secured less marks than the applicant; they were selected against SC & ST Roster Point vacancies of 08 & 04 respectively. Still there are seven (07) vacancies in SC and three (03) vacancies in ST remained unfilled. The applicant's averments are not true without exhausting the remedies the applicants cannot seek any grievance before this Hon'ble Tribunal as per rules.ö

4. Heard Sri KRKV Prasad, learned counsel for the applicant and Smt. Parvathi representing Smt. A.P. Lakshmi, learned counsel for the respondents.

5. After hearing the rival contentions, the issue raised before us is whether the applicant can be considered against the notified vacancies or not. The answer is in affirmative. The applicant can be considered as UR candidate. Reservation in promotion has been barred after the judgement of the Hon'ble Supreme Court in

M. Nagaraj@ case. Thus, we hereby direct the respondents to give appointment to the applicant to the post of Goods Guard, within a period of 90 days with all consequential benefits.

6. With the above direction, the O.A. is allowed. No order as to costs.



**(B.V. SUDHAKAR)**  
**ADMN. MEMBER**

**(ASHISH KALIA)**  
**JUDL. MEMBER**

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