

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 431 of 2002

Tuesday, this the 25th day of February, 2003

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HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. Suni P.S,
S/o P.U Sankaran,
Pallimakkal House, Cheroor PO,
Thrissur-6
2. Anoop K,
S/o V.P Balagopalan,
Sreekripa, Kunnathully House, Puzhakkal PO,
Muthuvara, Thrissur-680 553
3. Renjith Manohara Das,
S/o Manohara Das,
T.C.No.29/1483, Gopichandanam, Pettah,
Thiruvananthapuram-24
4. Mathew K.B,
S/o Joseph Babu,
Kaithakulam, Avalukkunnu PO,
Alappuzha - 688 006

....Applicants

[By Advocate Mr. Mathew Abraham]

Versus

1. Union of India, represented by
the General Manager,
Southern Railway, Chennai.
2. Senior Personnel Officer/Sports,
Southern Railway Sports Association,
Head Quarters Office, Park Town,
Chennai-600 003

....Respondents

[By Advocate Mrs K Girija for Mrs Sumathi Dandapani]

The application having been heard on 25-2-2003, the
Tribunal on the same day delivered the following:

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HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Applicants, 4 in number, being power lifting champions
at national level, were selected against the sports quota for
Group 'C' posts under the Southern Railway pursuant to the
talent scouting method of recruitment. Out of 10 candidates

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selected, 6 persons were appointed under the Integral Coach Factory (ICF for short) subsequently. The applicants herein were in the list of candidates approved by the General Manager on 6-6-1998, which is an admitted fact. Thus, the applicants were expecting to be appointed without trial, interview or further selection process. While so, the respondents, instead of issuing appointment orders to the applicants, issued a fresh notification (Annexure A6) inviting applications from open market candidates, proficient in different games including power lifting. Applicants are aggrieved by this notification in as much as their selection apparently is given the goby and a fresh selection has been set in motion without justification. Because of the continued inaction on the part of the respondents, the applicants made Annexure A2 representation dated 24-5-2000 to the 2nd respondent and requested for expeditious issue of orders on the basis of the selection approved on 6-6-1998. They have filed this OA seeking the following main reliefs:-

- "(i) To direct the respondents to appoint the applicants on Sports Account as per the approval list on 6.6.98.
- (ii) To set aside the Annexure A-6 notification."

2. Respondents have filed reply statement resisting the OA. According to the respondents, by Annexure R1 letter dated 30-6-1998 from the Railway Board, a new policy decision with regard to the recruitment of outstanding sports persons through talent scouting as well as open advertisement was on the anvil and pending formal finalization and notification of the policy, the processing of cases pertaining to sports quota recruitment was not to be taken up irrespective of whether the cases had been pending for a long time or not. Thus, the applicants' case also was kept pending without issuing any orders. Respondents have also filed a copy of the revised instructions

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regarding recruitment of sports persons vide Annexure R2 letter dated 19-6-2000, whereby 50% of the sports quota is earmarked for talent scouting and 50% is earmarked for advertisement channel.

3. We have heard Shri Mathew Abraham, Learned counsel for the applicants and Smt.K Girija, learned counsel for respondents. Shri Mathew Abraham, learned counsel for the applicants, would contend that since the selection process in relation to the applicants has been completed and names of the applicants herein have been approved at General Manager's level, subsequent action taken by the respondents in the matter of recruitment against sports quota, particularly with regard to advertisement channel, was unsustainable. Annexure A6 notification was, therefore, not maintainable in law. Learned counsel for the applicants also produced a communication dated 21-8-1998 of the Railway Board, which is referred to in Annexure R2, laying down the norms with regard to the distribution of posts amongst different Railways and Institutions under the Railways on the basis of talent scouting and advertisement quota. As per the said communication, 30% of the total quota of sports recruitment was earmarked for talent scouting and the remaining 70% for open advertisement quota. Inviting our attention to Para 7 of the said letter, learned counsel for the applicants would contend that although the revised quota system was to be effective from 1-4-1998, the recruitment already finalized in Group 'C' should count against the talent scouting quota and in that view of the matter, the applicants' selection having been completed, they should have received appointment orders against talent scouting quota even as per the revised procedure. Learned counsel would strongly contend that there is nothing in Annexure R1 or Annexure R2 that militates against appointment of the applicants. The only

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principle that was to be observed was that they should be fitted against only the permitted quota set apart for the relevant category.

4. On behalf of the respondents, it was contended by the learned counsel, Smt.K Girija, that the applicants' case could not be considered, since Annexure R1 made it clear that no pending case for selection should be acted upon. Subsequently, Annexure R2 was issued and therefore, the fresh selection process could only be done in accordance with Annexure R1 and Annexure R2. It was maintained by the learned counsel for respondents that the mere fact that the applicants found a place in the select list approved by the General Manager as per the earlier procedure in force, by itself would not confer on them any right for appointment. She would also strongly contend that Annexure A6 notification cannot be assailed, since it pertains to open advertisement channel of selection and it has nothing to do with selection by talent scouting.

5. We have gone through the records and considered the submissions made on behalf of the applicants and the respondents. We find that as per Annexure R1 communication dated 30-6-1998 all pending cases were to be kept without any further action thereon. However, it is not denied that the 4 applicants herein have been selected and the same was approved by the General Manager as early as on 6-6-1998. It is not as though Annexure R1 and R2 contain any specific embargo on processing the earlier cases. Annexure R1 is simply a communication, whereby the respective authorities were advised not to act upon the pending cases, since a policy decision was under way. On going through the communication dated 21-8-1998, which is referred to in Annexure R2 and perused by the learned counsel for the respondents also, we find that it takes care of

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the recruitment already finalized in Group 'C' category before the coming into force of the new recruitment procedure. In paragraph 7 of the said communication, it is stated as follows:-

"The revised quotas would be effective from 1.4.98. Recruitments already finalized in Group 'C' would count against the talent scouting quota. Recruitments in Group 'D' made hereafter would be against advertisements only."

Even in Annexure R2 dated 19-6-2000, which contains the latest policy decisions, it is stated thus:-

"11. In case any of the Railways/Units have already made some recruitments during the current year in terms of the earlier instructions contained in Board's letter No.E(Sports)98/Recrt.Policy/2 dated 21.9.98, they will ensure that the total recruitments both in Group 'C' and 'D' do not exceed the total quota earmarked to them as per para 3 above."

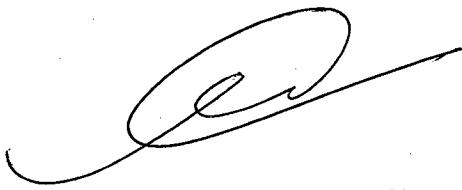
6. It is also to be mentioned here that though as per communication dated 21-8-1998 the quota was 30:70, i.e. talent scouting:open advertisement, as per Annexure R2 dated 19-6-2000 it was revised to 50:50. However, as far as the applicants' case is concerned, suffice is to say that there is no specific prohibition in processing their case as per the communication dated 21-8-1998 and Annexure R2 dated 19-6-2000. The only condition that is to be observed is that their recruitment should be within the overall quota earmarked for each category. Having regard to these facts, we are convinced that the applicants' case deserves to be considered by the respondents in a just and fair manner in the light of the Railway Board's instructions dated 21-8-1998 followed by Annexure R2 dated 19-6-2000. It is, therefore, necessary to direct the 1st respondent and/or any other competent respondent to take into account the applicants' Annexure A2 representation, and any other additional representation which the applicants might

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submit within two weeks from today, and pass appropriate orders thereon and serve the same on the applicants within a period of two months from the date of receipt of the additional representation, if any, submitted by the applicants and in any case within two months from the date of expiration of two weeks from today.

7. The Original Application is disposed of with the above directions. There is no order as to costs.

Tuesday, this the 25th day of February, 2003



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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