

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.568/09

Monday this the 8th day of March 2010

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

Pankaj Kumar Yadav,
Assistant Divisional Mechanical Engineer (ADME)
Coaching Depot, Southern Railway,
Power House Road, Thiruvananthapuram – 695 036.

...Applicant

(By Party-in-Person)

V e r s u s

1. Union of India represented
by the Additional Member Mechanical,
Ministry of Railways, Railway Board, New Delhi.
2. Chief Personnel Officer (CPO).
Southern Railway, Chennai – 600 003.
3. Shri.Arun Bhagra,
Director, Indian Railway Institute of Mechanical
& Electrical Engineer (IRIMEE) – Jamalpur,
Munger District, Bihar – 811 214.
4. Shri.A.K.Mandal,
Dean, Indian Railway Institute of Mechanical
& Electrical Engineer (IRIMEE) – Jamalpur,
Munger District, Bihar – 811 214.
5. Workshop Personnel Officer,
Jamalpur Workshop/Eastern Railway,
Jamalpur, Munger, Bihar – 811 214.
6. Deputy Chief Accounts Officer,
Jamalpur Workshop/Eastern Railway,
Jamalpur, Munger, Bihar – 811 214.

...Respondents

(By Advocate Ms.P.K.Nandini [R1&2])

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This application having been heard on 8th March 2010 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking an order to quash the Annexure A-2 letter dated 14.12.2007, Annexure A-1 letter dated 26.2.2009 and Annexure A-3 letter dated 24.7.2009. Annexure A-2 letter has been issued by the Director, Indian Railways Institute of Mechanical and Electrical Engineering (IRIMEE for short), Jamalpur to the Chief Mechanical Engineer, Southern Railway, stating that the applicant has been released on 14.12.2007 with a direction to report to him for further training against a working post. It was also stated in the said letter that the applicant had joined as an IRSME Probationer on 3.9.2001 but he had proceeded on LWP for a year from 4.9.2001 for civil service examinations in accordance with the Railway Board's guidelines but he has already availed off four years and eight months LAP/LWP. It was further stated therein that the applicant had successfully completed all his probationer training except his final posting examination and interview with Director for which he has to be sent again to IRIMEE in April, 2008. Annexure A-1 is a reminder from the IRIMEE to the Chief Mechanical Engineer, Southern Railway requesting to sent him on any working day in the 3rd week of May, 2009 for his interview with the Director as he has not yet reported to IRIMEE after his training for his interview with the Director. By Annexure



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A-3 letter dated 24.7.2009 the Accounts Department, Eastern Railway has sent the applicant's service card, service sheet, leave accounts and audited LPC to the FA&CAO, Chennai for further necessary action in the matter.

2. The brief facts of the case are that after the applicant was released on 14.12.2007 from IRSME vide Annexure A-2 letter of the same date, he was posted to the Southern Railway as ADME/DSL at Erode vide Annexure A-9 letter dated 18.12.2007. Thereafter, he proceeded on leave with effect from 22.12.2007 to 1.2.2009. On resumption, he was posted as Assistant Divisional Mechanical Engineer at Coaching Depot, Southern Railway, Thiruvananthapuram. Vide Annexure A-11 letter dated 4.2.2009, he assumed the charge of the said post from the same date. According to him, due to discrimination during his training programme at IRIMEE, Jamalpur, he had lost many years in his service carrier.

3. The applicant was informed vide Annexure A-4 letter dated 29.8.2007 that the final posting examination for Mechanical I and Mechanical II Papers will be held on 1.9.2007 and 2.9.2007 respectively. Vide Annexure A-5 letter dated 29.4.2008 he was directed to report to the Director, IRIMEE, Jamalpur within one week for completing probationary training and interview. Again, vide Annexure A-6 letter dated 6.4.2009 the Director, IRIMEE, Jamalpur has informed the Chief Mechanical Engineer, Southern Railway, Chennai that the interview with Director, IRIMEE of the



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applicant has been fixed on 21.5.2009 at 15:00 hrs in Director's Chamber. Vide Annexure A-7 letter dated 21.5.2009 the Director, IRIMEE has informed the Senior Divisional Mechanical Engineer, Southern Railway, Thiruvananthapuram that the applicant has reported to their office on that date for Director's interview and thereafter he has been released on the same day. Vide Annexure A-8 letter dated 25.5.2009 the Director, IRIMEE has informed the Chief Mechanical Engineer, Southern Railway, Chennai that the applicant was interviewed by Director, IRIMEE on 21.5.2009 but his performance was found very unsatisfactory.

4. The Chief Mechanical Engineer, Southern Railway also vide Annexure A-13 letter dated 11.6.2009 informed the applicant that he had attended the interview conducted by Director, IRIMEE, Jamalpur on 21.5.2009 but his performance was not satisfactory. Though he was given two more chances to appear for the interview earlier at IRIMEE he was not able to come out successful in the interview. He was, therefore, advised to improve his performance in the working area and his approach with senior officers. He submitted that the Annexure A-13 letter dated 11.6.2009 issued to him by the Chief Mechanical Engineer stating that he had attended the interview conducted by Director, IRIMEE, Jamalpur on 21.5.2009 in which his performance was not satisfactory and he was given two chances to appear for the interview earlier at IRIMEE but he could not come out successful in those interviews also and advising him to improve his performance in the working area and his approach with senior officers



was with the intention to demoralise and harass him and to have bad consequences on his future carrier prospects in the Railways. He has also cited Annexure A-14 letter dated 13.7.2009 issued by the SME/HQ&Secy to CME to show that the respondents were planning to hamper his promotional prospects by nominating him for the training programme on Managing Work Effectively, a behavioral approach at work scheduled from 20.7.2009 to 23.7.2009 at V.V.Giri National Labour Institute Campus, Noida. Vide Annexure A-15 letter dated 3.1.2008 to the President of India the applicant has submitted that he had completed the entire training module including the final posting examination and posting interview on 2.9.2007. He has also submitted that the Annexure A-2 posting order was issued to him on 14th December, 2000 posting him to Southern Railway was basically an extension of training and it was issued because of the official manipulation by IRIMEE, Director. He was, therefore, quite tense and he was unable to continue on duty. He has filed copies of the Annexure A-16 series of documents to show that he was getting even less salary than what he had been getting in 2004. He was not given any increment because the last pay certificate was not sent by the 5th and 6th respondents due to non clearance from the 3rd and the 4th respondents. He has also filed Annexure A-17 series of documents to say that the 2nd respondent has not given reply to his request for the service documents and last pay certificates through RTI application. Vide Annexure A-18 series of letters he has made suggestions that officers from the Railway Board should be appointed to conduct an enquiry without much delay to



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solve the problems. He has also filed another affidavit stating that he was successful in the final interview conducted on 31.8.2009 and he had obtained 61 marks out of 100. Similarly, he was successful in the final posting examination conducted on 1.9.2007 and 2.9.2007 by obtaining 60 out of 100 marks in Paper I and 61.5 out of 100 marks in Paper II. However, the respondents were not interested to give him any posting. Hence they did not conduct any director internal interview either on 30.8.2007 or 3.9.2007.

5. The respondents in their reply has submitted that Southern Railway is the applicant's parent Railway. He was undergoing training (on job training) against a working post as stated in Annexure A-2 letter dated 14.12.2007. He has successfully completed all his probationary training except his final posting examination and interview for which he was sent to IRIMEE, Jamalpur in April, 2008. Final posting examination and interview is treated as a phrase which means any written examination or interview related to final result of the probationer for posting. Normally, a probationer is relieved for posting after successful completion of posting examinations and after the interview is cleared. Occasionally, if the formalities are completed after posting in their parent Railways for some unavoidable circumstances either on the part of administration or the probationers side seniority and service conditions are not affected as per rule. The applicant has disappeared from Erode Diesel Shed of Southern Railway on 22.12.2007 ie., just two days after joining there. He continued to remain



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absent from duties till 1.2.2009 ie., for more than one year. The final posting examinations (Paper 1 and 2) were over by 2.9.2007 but the Director's interview was due. Though he passed the two papers of the final posting written examination with 60% and 61.5% marks as against the 60% minimum marks yet he was unsuccessful in the Director's interview which was held twice on 13.12.2007 and 21.5.2009 in which he got only 47% and 14% marks respectively as against the minimum requirement of 60% marks. On humanitarian grounds he was given a third chance to appear for the Director's interview on 31.8.2009 but he failed to turn up despite the advice and intimation by the authorities. So the posting of the applicant in Southern Railway does not imply that he has completed the final posting procedure. Rather, he was given an opportunity to develop the required technical skills. Hence allegation of harassment and discrimination by the applicant has no basis. On the other hand, the IRIMEE authorities have adopted a more humane approach in his case as is evident from the fact that though the applicant resigned from service on 9.3.2004 on his personal accord and returned the duty card pass, identity card etc. he was allowed to resume duty after he has expressed his interest to continue in service by informing the Director over phone on 24.5.2004. He once again submitted his resignation letter on 11.1.2005 but the same was also not accepted as the Director has restricted powers for accepting the resignation of a probationer. According to rules, when a probationer resigns for a better Govt. service ie. IAS, IPS, IFS (with prior permission for competing in the selection process) it is treated as technical

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resignation and it is accepted without refund of cost incurred for the training. But in cases of resignation on other grounds, the cost of training is to be recovered as per bond submitted by probationer at the time of joining Railways. The respondents have also denied the allegation of the applicant that he was harassed and because of it he lost two years of service. On the other hand, they submitted that he was taking long leaves occasionally and remaining absent from Training repeatedly. Therefore, those periods of absence were regularised as LWP and his probationary training period was extended as envisaged in Railway Board's letter dated 15.9.1992 by the competent authority. The respondents have also alleged that the applicant had removed two leave applications (3.9.2007 to 25.11.2007 and 29.11.2007 to 12.12.2009) from the file, when the Professor was not there in his chamber.

6. We have heard the applicant in person and learned Advocate Ms.P.K.Nandini for the respondents. The first grievance of the applicant is against the Annexure A-2 and Annexure A-1 letters of the Director, IRIMEE dated 14.12.2007 and 26.2.2009 respectively regarding the completion of his training period. His contention is that he should be treated as completed his training period without subjecting him for any further interview with the Director. His other grievance is about the Annexure A-3 letter dated 24.7.2009 from the Accounts Officer, Eastern Railway, regarding his service card, service sheet, leave account, LPC etc. As regards his first grievance is concerned, we have seen that the

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probationers are generally given only two chances for passing the interview with the Director. The applicant has already availed himself of those chances on 13.12.2007 and 21.5.2009 respectively but he failed, getting only 47% and 14% marks respectively as against the minimum requirement of 60% marks. On humanitarian grounds, the respondents have given him one more opportunity to appear in the Director's interview but he did not participate in it. The applicant is expected to pass the Director's interview as provided under the rules and his refusal to avail himself of the the 3rd chance was to his own detriment. We, therefore, in the given circumstances and in the interest of justice, direct the respondents to grant him one more opportunity to appear in the Director's interview and he shall be informed about the date of interview in advance within three months from the date of receipt of a copy of this order. In case the applicant again do not appear before the Director on the appointed date, without any justifiable reasons, it will be at his risk. As regards his second grievance is concerned, it is seen that the same is not related to the first one. He has also not made any representations to the respondents in this regard before he filed this OA. We, therefore, grant him the liberty to make a detailed representation to the concerned authority within a period of two months from the date of receipt of a copy of the order. On receipt of such a representation, the respondents shall consider the same and dispose it of with a reasoned and speaking reply to the applicant, within three months thereafter.



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7. With the above directions, this OA is disposed of. There shall be no order as to costs.

(Dated this the 8th day of March 2010)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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