

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 30.11.1989

Present

Hon'ble Shri NV Krishnan, Administrative Member

and

Hon'ble Shri N Dharmadan, Judicial Member

DA 595/89

T Maheesan

: Applicant

Vs.

1 Union of India rep. by  
Secretary to Government of India  
Ministry of Railways, New Delhi-1.

2 District Secretary, Bharath Scouts  
and Guides, Palghat Division.

3 District Commissioner,  
Bharat Scouts and Guides,  
Palghat Division.

4 Divisional Railway Manager  
Southern Railway, Palghat

: Respondents

Mr MK Damodaran

: Counsel of Applicant

M/s MC Cherian, TA Rajan

: Counsel of Respondents

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Shri NV Krishnan, Administrative Member.

The applicant is the son of a retired railway employee, since deceased, and is a Member of the Southern Railway, State Bharat Scouts & Guides and has been involved with Parasuram Scout Group, Palghat District. In that capacity, he applied for a Group D post reserved against the Scout quota. However, his application, which was for the vacancy for the year 1988-89, was not forwarded to the State Chief Commissioner by Respondent-2 for the reasons mentioned by him in his letter dated 8.9.89 (Annexure-VIII).

The applicant is aggrieved by this refusal to forward

his application and request<sup>s</sup> that the Annexure VIII letter may be quashed and Respondent-4 be directed to allow the applicant to attend the interview for this post.

2        The Respondents have filed a reply wherein they <sup>have</sup> denied that the applicant is entitled to any relief. Applications were invited for the appointment to Group D posts reserved for eligible Scouts and Guides for the year 1988-89. 25 applications, including that of the applicant, were received. On the direction of the State Chief Commissioner, Madras (Chief Personnel Officer, Southern Railway- Ex Officio), the applications were scrutinised and six applicants, including the applicant, were found to be ineligible. The reasons for the ineligibility have been stated in Annexure-VIII.

3        The Respondents contend that the applicant was active as a Member of the Parasuram Scout Group before 1986, but not thereafter. In fact, he had not even enrolled himself in 1988-89 as his name is not included in the Membership Register for 1988-89 sent by the Group Leader of Parasuram Scout Group (Ext.R1(c)). This is a primary eligibility condition which is not satisfied by the applicant. The applicant has tried to explain the lacuna by stating that he was not registered though he applied for registration. However, he did not make

any complaint in this regard. Further, some of the important claims made by the applicant have not been found correct by the District Organising Commissioner, Scouts who had personal knowledge of the Scout activities in the Palghat Division.

4 The Annexure VIII specifies the following reasons for withholding the application:

" 1. You have not taken part in the Unit/Dist. Camp organised every year for which you should bear your own expense, as certified by Dist. Organising Commissioner.

2. You have not taken part in service projects or celebrations in the unit/Dist. as verified from Dist. Organising Commissioner.

3. You have not imparted training to 3 other Scout upto Dvithheeya Sopan Standard or impart training to 3 others upto Nipun Standard.

4. You have not registered your name in any unit for 88.89 and you have also not produced any receipt from the Dist. authorities for having registered your name."

The applicant contends that these reasons are not correct and that he satisfies all the eligibility conditions.

In this connection he refers to the fact that even in 1987 he was called for an interview for the same purpose vide the letter dated 16.1.87. (Annexure-X). He has particularly Annexure-IX(a) produced various documents on the basis of which he contends that the allegations made against him are not correct and he is fully eligible to be considered as a candidate.

5 We have carefully gone through the records and heard the counsel for the parties.

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Prima facie, the statement made by the Respondents  
that the applicant was active up till 1986 seems to be  
substantiated because the applicant has submitted copies  
of 10 certificates along with this application relating  
to the activities in the Scout (Annexures 1 to 4  
including sub-Annexures). None of these certificates is  
of a date later than May, 1986. Most of them are in  
respect of activities of earlier years.

7                   In his rejoinder, the applicant has contended  
that he could not be enrolled for Membership in 1988-89  
because he was not allowed to register his name on the  
plea that Wards of retired employees are not eligible to  
register in the movement. It is true that the applicant's  
father retired in 1986. It is surprising that this plea  
was not taken in 1987-88. On the contrary, the Annexure V  
letter dated 21.2.89 clearly states that a Scout/Guide  
whose parent retired during the year will be allowed to  
continue till completion of one year and that he can also  
continue for <sup>a</sup> longer period if he has earned the President's Scout  
Award before the retirement of the parent and <sup>if he</sup> satisfies  
certain conditions <sup>relating to Scout activities</sup>. Thus, it is clear that it is not due  
to the fact that the applicant is a son of a retired  
official that he could not be given Member in 1988-89,  
but he was apparently denied Membership because he was not  
eligible as he had not taken part in the Scout activities  
to the extent indicated in Annexure V. As against <sup>the Group</sup> this claim the

Leader of the Parasuram Scout Group states, surprisingly, in an undated letter to the Hon'ble District Secretary of the Association (Annexure-II) that it was due to a clerical omission that his name was omitted for registration in 1988-89. These circumstances make the applicant's claim suspicious and the facts mentioned above, perhaps, show that the registration was not done for other reasons.

8. It is in this connection that the certificate at Annexure-IX (a) given to the applicant by the Parasuram Scout Group on 9.9.1989 (and on which the applicant relies heavily) has to be critically examined. That certificate states that the applicant had participated in many activities in calendar year, 1987, 1988 and 1989. In this regard, it is stated in the counter affidavit that the District Organising Commissioner, Scouts has given the following comments in regard to the claims made in Annexure-IX(a):

"The Unit level camps that the Rover. T Maheesan mentioned in the application which was also certified by the Group Leader (s) G.L). "Parasuram Scout Group" have been verified with the records of the district. I am sorry to state that no prior permission for the Camps from the District Organising Commissioner, Scouts (DOC/S) have been obtained for the items 1,2,4,7 and 9 of the GS(s) Certificate. As per the APRO Part II Rules (regarding hikes, treke and camps for Scout-page 47 & 48) it is obligatory to obtain prior permission from DOC/S for any camps. The name of the Rover T Maheesan was not at all mentioned in any of the lists submitted for the District camp of the troupe at Nilambur, Yercaud and Mettur Dam.

" The reports of the camps also have not been submitted so far. The events of the district that the Rover claims that he has participated, which are certified by the GL(S) have been verified with the records. Once again there is no mention of his name in any of the list submitted by the Group. I have been actively involved in all the events he had mentioned and in some events I have been the

whole incharge of Scouts and Guides. I can very well state that the Rover has never participated in any of the events, which he claims now.

" The statement that he has led the Band team at ICF State Comporee is incorrect. A certificate which is countersigned by the State Organising Commissioner (Scouts) is enclosed herewith for your verification."

The certificate referred to has been produced as Ext.R1(d).

These comments only reinforce the doubts raised earlier about the veracity of the claims made by the applicant who rebut the letter at Annexure-VIII.

9. He has filed Annexure IX(b) to show that he has trained as many as 30 persons. This does not advance his claim at all. For, copy of ledger page 34, <sup>(An. Ex 6)</sup> gives only particulars of the Members in the Parasuram Scouts Group. It is <sup>a</sup> not proof of the applicant having imparted training. That apart, this is shown to be for the year 89-90 which is not relevant for the application for 88-89. Page 35 of the ledger, also shown as Annexure IX(b), does not even indicate what it is supposed to be and does not <sup>it contains</sup> bear the applicant's name.


10. After having carefully considered all aspects, we are satisfied that the applicant was not a Member of the Parasuram Scout Group in 1988-89 which is an essential pre-requisite for the consideration of his application and, <sup>it further</sup> that reliance cannot be placed on the certificate at Annexure-IX(a).

11. In the circumstances, we are of the view that the application of the applicant was scrutinised properly at

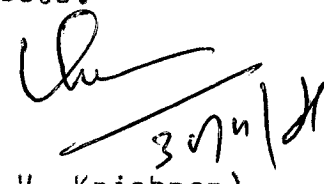
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the District level and he was rightly found to be disqualified for the post. Therefore, this application has no force and accordingly it is dismissed.

12. There will be no order as to costs.

  
(N. Dharmadan)  
Judicial Member

30/11/89.

  
(N.V. Krishnan)  
Administrative Member

30th day of November, 1989.