

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

DATE OF DECISION: 7. 11. 1989

P R E S E N T

Hon'ble Mr.N.V.Krishnan - Administrative Member  
and

Hon'ble Mr.A.V.Haridasan - Judicial Member

ORIGINAL APPLICATION NO.125/89

K Arumugham - Applicant

Versus

1. Union of India rep.  
by General Manager,  
S.Railway, Madras
2. Sr.Divisional Personnel  
Officer, S.Railway,  
Palghat.
3. Siddayyan, Sanitary Cleaner,  
Railway Hospital,  
Erode. - Respondents

M/s M Ramachandran &  
P Ramakrishnan - Counsel for applicant

M/s MC Cherian &  
TA Rajan - Counsel for respondents

O R D E R

(Hon'ble Mr.A.V.Haridasan, Judicial Member)

This application under Section 19 of the  
Administrative Tribunals Act, 1985 had been filed  
by the applicant who is a higher grade Sanitary  
Cleaner in the Railway Hospital, Erode for a decla-  
ration that he is entitled for consideration for

...2/-

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selection to the post of Hospital Attender in the scale of pay of Rs.750-940 and for a direction to the respondents 1 and 2 to take steps for interviewing him also for selection to the post of Hospital Attender and to appoint him without detriment to his seniority over his erstwhile juniors.

2. The averment in the application can be briefly stated as follows. The applicant who was working as Sanitary Cleaner in the scale of pay of Rs.750-940 in the Railway Hospital, Erode was promoted to the higher grade of Rs.775-1025 in August, 1983, he being the senior most. His juniors including the third respondent are still working in the lower grade of Rs.750-940. The posts of Hospital Attendant though carrying the same pay scale as the lower grade of Sanitary Cleaners are filled by selection from volunteers from sanitary cleaners. Coming to know of <sup>the</sup> selection to the post of Hospital Attendant, the applicant also submitted an application opting for the post. But the applicant was not called for an interview whereas his juniors including the third respondent have been interviewed and are about to be posted in the three existing vacancies of Hospital Attenders. According to the applicant

...3/-



the action of the second respondent not considering him for selection to the post of Hospital Attender despite the fact that, he being senior has expressed his willingness is arbitrary, illegal and violative of his fundamental rights <sup>under</sup> article 14 and 16 of the Constitution of India.

3. The third respondent remained absent. The second respondent on behalf of the respondents 1 and has 2/filed a counter affidavit. The non-consideration of the applicant for selection to the post of Hospital Attender has been justified by the respondents 1 and 2 on the ground that, since the applicant had been promoted to the higher grade of sanitary cleaner in the grade of Rs.200-250 which has been revised to 775-1025 as early as on 29.11.83 and as the post of Hospital Attendants in the scale of Rs.750-940 was decided to be filled up by calling volunteers from safaiwalas in the grade of Rs.750-940, the applicant was not eligible for consideration.

4. We have heard the argument of the counsel on either side. The averment in the counter affidavit that the applicant was promoted as a higher grade sanitary cleaner in the grade Rs.200-250 (pre-revised) (Rs.775-1025 - revised) on 29.11.83

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or

w.e.f. 1.8.1983 in terms of Office Order No.71/83  
dated 29.11.1983 has <sup>been</sup> not/contraverted by the appli-  
cant by filing a rejoinder. The notification for  
filling up of vacancies of Hospital Attendants  
concerned in this case was issued on 15.3.1988.  
This notification runs as follows:

"To fill up the posts in in Hospital  
attendants in scale Rs.750-940, it has  
been decided to call for volunteers  
from the employees working as Safaiwalas  
in grade Rs.750-940.

Please notify all the regular  
employees.

The applications from willing  
employees may be obtained and forwarded  
to this office in a lot so as to reach  
this office on or before 25.3.1988. The  
application received after the target  
date will not be considered."

A copy of this notification is in Annexure R.1(a).

In response to this it is seen that on  
24.3.1988 the applicant has expressed his willingness.  
Annexure-R.1(b) is a copy of the willingness. Since  
on the date of Annexure-R.1(a) and R.1(b), the  
applicant was working as a higher grade safaiwala  
in the scale Rs.775-1025 having been promoted to  
that grade w.e.f. 1.8.1983, and he <sup>a</sup> not  
being/safaiwala in the grade 750-940 as mentioned  
in Annexure-R.1(a), he is not eligible for consi-  
deration for selection as Hospital Attendant since

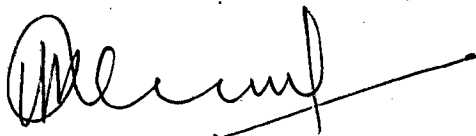
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selection is only to be made from safaiwalas in the grade Rs.750-940. Therefore, there is absolutely no irregularity or illegality in leaving out the applicant from consideration to the post of Hospital Attender.. We also therefore find that, there is absolutely no merit in the claim put forth by the applicant.

5. In the result the application being devoid of any merit is dismissed.

6. We do not make any order as to costs.

  
(A.V. HARIDASAN)  
JUDICIAL MEMBER

  
(N.V. KRISHNAN)  
ADMINISTRATIVE MEMBER

7.11.1989