

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.NO.17/2001

Thursday this the 15th day of February, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M.Narayanan, S/o K.Kundan,  
Chief Personnel Inspector,  
Office of the Senior Divisional Personnel Officer,  
Southern Railway, Palghat,  
residing at 255A, Railway Quarters,  
Hemambika Nagar,  
Olavakkod. ....Applicant

(By Advocate Mr. P.Ramakrishnan)

v.

1. Union of India, represented by the Chairman, Railway Board, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Chennai.
3. The Chief Personnel Officer, Southern Railway, Chennai.
4. The Senior Divisional Personnel Officer, Southern Railway, Palakkad.
5. K.Sudhakaran, Assistant Personnel Officer, Southern Railway, Palakkad.
6. R.Muthuswamy, Assistant Personnel Officer, Engineering Workshop, Southern Railway, Arkonam.
7. P.Krishna Raj, Assistant Personnel Officer, Southern Railway, Madurai.
8. T.P. Bhaskar, Assistant Personnel Officer, Metro Transportation Project, Southern Railway, Chennai.
9. C.Devarajan, Assistant Personnel Officer, Traffic, Headquarters, Southern Railway, Chennai.
10. Nagarathna Jayasimha, Assistant Personnel Officer, Southern Railway, Mysore.

11. R.Gurumurthy, Assistant Personnel Officer, Southern Railway, Chennai.
12. Shanti RajBoj, Assistant Personnel Officer, Southern Railway, Chennai.
13. G.Subramanian, Assistant Personnel Officer, Southern Railway, Tirichirappilly.
14. R.Mohan, Assistant Personnel Officer, Worksho, Southern Railway, Goldenrock.
15. T.R.Raghavendran, Assistant Personnel Officer, Southern Railway, Trivandrum.
16. Chandrika Jayashankar, Assistant Personnel Officer, Southern Railway, Palghat.
17. D.Gopi, Assistant Personnel Officer, Southern Railway, Madras. ....Respondents

(By Advocate Mrs.Sumati Dandapani (for R.1to4)

The application having been heard on 15.2.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V. HARIDASAN, VICE CHAIRMAN

The applicant who claims to be the seniormost Chief Personnel Inspector in the office of the Divisional Personnel Officer, Southern Railway, Palakkad participated in a process of selection to the post of Assistant Personnel Officer Gr.II held in the year 1997. In the panel prepared the applicant's name was not included but the names of respondents 5 to 17 were included. They were appointed by promotion as Assistant Personnel Officers. The panel prepared on 1.12.97 including the respondents 5 to 17 were challenged by a set of persons who were aggrieved before the Chennai Bench of the Central Administrative Tribunal in OA 1035/98. Noting the undertaking given by the Railway Administration that necessary action would be taken after

receipt of the report submitted by the CBI, the Original Application was disposed of. Thereafter the Railway Board took a decision to cancel the entire panel on 14.7.99 (A.1). While the panel was set aside and a fresh panel was to be prepared it was inter alia provided that those who had been promoted would continue on adhoc basis. Thereafter a fresh panel was prepared on 8.11.99 in which the names of respondents 7,10 and 11 were not included. This panel was again challenged by the respondents 7,10 and 11 before the Chennai Bench of the Tribunal in OA 1090/99 and 1135/99. Both these applications have been dismissed by the judgment dated 17.12.99. (A4) with an observation that those people have no right to continue. Aggrieved by the dismissal of those Original Applications it appears that the applicants therein had approached the Hon'ble High Court, Chennai and filed OPs. Coming to know of Annexure.A1 order the applicant made a representation on 5.10.2000 (A5) claiming that promotions may be made to the post of Assistant Personnel Officer on adhoc basis and he may be considered on the basis of seniority. Finding no response to this the applicant has filed this application seeking an order directing the second respondent to take appropriate action for making promotion/appointment to the thirteen posts of Assistant Personnel Officers referred to in Annexure.A1 in accordance with the Annexure.A3 order of the Railway Board and to consider the applicant for adhoc promotion.

2. Respondents 1 to 4 have filed a detailed reply

statement. It has been contended that while cancelling the panel, the General Manager had decided that as an interim measure till a fresh panel is prepared those who had been promoted on the basis of the panel which was set aside would continue on adhoc basis, that cancellation of the panel by Annexure.A1 order has been challenged in three Original Applications before this Bench viz., OAs 782/99, 783/99 and 787/99 where there is an interim order directing that the applicants therein should be allowed to continue as Assistant Personnel Officers on adhoc basis until further orders, and against the dismissal of OA 1090/99 and 1135/99 there are OPs pending before the Hon'ble High Court, Chennai in which there has been an interim order of status quo for two weeks. Under these circumstances, the respondents contend that the applicant is not entitled to have the reliefs sought. It has also been stated that though the applicant was participated in a selection held on 29.7.2000 for promotion as A.P.O he did not qualify and therefore, there is no merit in the claim of the applicant.

3. On a careful scrutiny of the pleadings and other materials available on record and on hearing the learned counsel on either side, we do not find any merit even *prima facie* in the claim of the applicant. The applicant has placed reliance on the Railway Board Circular dated 28.5.90 (A3) which reads thus:

"There should normally be no need to resort to adhoc arrangements before the next selection in view of the provision for a liberal assessment of vacancies taking into account 30% of the cadre of both Group B and Junior Scale posts including Construction reserve. If the panel is likely to be used up before the next selection becoming due after two years, steps should be initiated to hold the next selection without waiting for the two years period to be over, so that the next panel becomes available well in time before the previous panel gets exhausted.

In the event of adhoc arrangements still becoming necessary due to un-avoidable contingencies like injunctions from Court of Law, such appointments should be made on the basis of seniority-cum-suitability from amongst all eligible candidates who appeared in the earlier selection irrespective of whether they passed the written examination or not in earlier selections and became eligible for empanelment or not. At the same time, it should be ensured that those adhoc promotions whose working as judged from their record of performance, is not satisfactory are reverted as early as possible."

and stated that there is an order of status quo issued by the Hon'ble High Court, Chennai for two weeks it is not possible for the time being to fill up the vacancies on a regular basis, it is necessary to make adhoc promotions on the basis of seniority as provided for in the Railway Board letter Annexure.A3. We are not at all impressed with this argument. The Railway Board Circular (A3) has no relevance in the present case. The above Railway Board Circular covers a situation where there is an order of stay in filling up the vacancies on a regular basis and therefore adhoc promotion/appointment are to be made. Here is a case where selection was held, panel was prepared and persons were promoted on the basis of placement in the panel. Setting aside of the panel by Annexure.A1 is under challenge atleast in three applications before this Bench of the

Tribunal in which there are orders of stay of reversion of the applicants therein. Whether the original panel prepared was valid or whether ~~that~~ the second panel was alright or neither of the panel is valid etc. are questions that would be finally determined after adjudication of the cases in that regard. Till such time the matter is finally decided by the competent courts some adhoc arrangements is required and that was provided for in Annexure.A1. The applicant has not challenged the provision in Annexure.A1 order of General Manager that till a panel is prepared those who had been promoted on the basis of panel which has been set aside would continue on adhoc basis.

4. In the circumstances, we are of the view that the applicant is not entitled to the reliefs claimed. In the result, the application fails and is same is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 15th day of February, 2001

  
T.N.T. NAYAR  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A1:True copy of the Office Order No.HPB(C)428/99 dated 14.7.99 issued by the 2nd respondent.

Annexure.A3:True copy of Railway Board order No.F.(GP)87/2/72 dated 28.5.90 communicated vide 2nd respondents letter No.P(G)532/P/Vol.V dated 11.6.90.

Annexure.A4:True copy of order dated 17.12.99 in OA Nos.1090 and 1135/99 of the Hon'ble Central Administrative Tribunal, Madras Bench.

Annexure.A5:True copy of representation dated 5.10.2000 from the applicant to the 2nd respondent.

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