

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
T. A. No.

196

1991

DATE OF DECISION 29.6.92

Pushpakumar K.C. Applicant (s)

Mr. K. Ramakumar Advocate for the Applicant (s)

Versus

The Union of India represented Respondent (s)  
by the General Manager, Southern Railway  
Madras and others

Smt. Sumathi Dandapani Advocate for the Respondent (s) 1 to 3

CORAM:

The Hon'ble Mr. P.S. HABEEB MOHAMED, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The grievance of the applicant is that he was not given appointment as Clerk Grade-II even though he has been selected in the interview and the Railway has issued Annexure-B letter. He has filed this application with the following reliefs:

- "i) to direct the respondents to immediately appoint the applicant as Clerk Grade-II pursuant to Annexure-A and the further proceedings followed it.
- ii) To issue such other orders or directions as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

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2. The learned counsel for the applicant placed strong reliance on Annexure-B letter dated 25.7.89 issued by the Personnel Officer of Integral Coach Factory, Madras and submitted that this is an order of appointment and he is entitled to be absorbed in the post of Clerk Grade-II earmarked for SC category pursuant to the same. The relevant clause in Annex.B reads as follows:

"The vacancies for SC candidates are limited and those candidates who report for duty by 7.8.89 will alone be considered for offer of appointment on the basis of the merit position indicated by the Railway Recruitment Board, Madras. Please note that this is not an offer of appointment. The offer of appointment will be made on completion of recruitment formalities like the medical examination etc. "

3. Annexure-C is a further communication dated 6.9.90 issued by the General Manager to the applicant considering his representation to the Minister of Railways. That letter reads as follows:

"I have called for the papers and examined the matter. In order to fill up the shortfall vacancies of SC/ST ICF which is under the jurisdiction of RRB/Madras had called for candidates from them. As a precaution they also called candidates from SC/ST Bangalore and Trivandrum to keep them as stand by in case candidates from RRB/Madras did not turn up, so that offer of appointment to candidates like you from other RRBs could be given and in the process, shortfall of SC/ST could be wiped out. As the candidates supplied from RRB/Madras turned out to the extent of the shortfall, it got cleared by giving appointment to the candidates from RRB/Madras. Hence, offer of appointment could not be given to you."

4. The respondents have filed a detailed counter affidavit stating that when a vacancy of 4 posts of SC candidates arose in ICF, Madras, 8 candidates, who were sponsored by the CPO, Southern Railway, were asked to report for consideration.

It was made clear in the letter that the candidates will be considered for appointment in the order of merit when they report on a specific date of 7.8.88. Pursuant to the said letter sufficient number of persons from Madras region appeared and they were appointed. Hence, the applicant could not be given a posting.

5. We have heard the learned counsel for both sides. We are not in a position to accept the contention of the learned counsel for the applicant that Annexure-B is an appointment order. Annexure-B makes it clear that the applicant even though was selected and included in the list will be considered for appointment if he reports for duty on 7.8.89. The other candidates similarly reported for selection were also ~~been~~ <sup>y</sup> considered on 7.8.89. It has been further made clear in Annexure-C letter that the applicant was not appointed simply because of the fact that sufficient number of persons were available from Madras region itself.

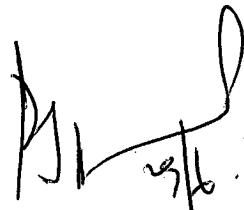
6. The applicant has neither challenged Annexure-C nor impleaded the ICF, Madras in this application. The learned counsel for the respondents submitted that because of the failure to implead the proper parties, the Tribunal <sup>y</sup> should not issue order/direction to the respondents. The learned counsel for the respondents also submitted that in the notification itself it was made clear that the selection was for the year 1987 and the applicant cannot stake his claim for subsequent vacancies. According to the learned counsel for the respondents, there is no vacancy exists at present.

7. Having considered the matter in detail, we are of the view that the applicant has no right to be appointed. The application is only to be rejected. Accordingly, we reject it.

8. There will be no order as to costs.

  
(N. Dharmadan)  
Judicial Member

29.6.92

  
(P. S. Habeeb Mohamed)  
Administrative Member

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