

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.225/2000

Wednesday this the 22nd day of March, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

G.Chinnaswamy

s/o P.Gundan, aged 49 years
Driver (Adhoc)
Office of Executive Engineer
(Construction), Southern Railway,
Erode.

....Applicant

(By Advocate M/s Santhosh & Rajan (represented)

vs.

1. Union of India, represented by
the General Manager, Southern Railway,
Headquarters Office,
Park Town PO, Chennai.3.
2. The Senior Divisional Personnel Officer,
Southern Railway,
Palakkad Division, Palakkad.
3. A.Kaleel Ibrahim,
Carriage & Wagon Khalasi Helper,
Office of the Senior Section Engineer
(C&W) Southern Railway,
Coimbatore.
4. P.Ravichandran, Senior Trolleyman
Works Branch, Southern Railway,
Palakkad.
5. T.Ravi, Gangman,
Office of Senior Section Engineer
(Permanent Way)
Southern Railway, Shoranur.
6. P.Rajkumar
Khalasi,
Office of Deputy Chief Engineer
(Gauge Conversion)
Southern Railway, Madurai.

...Respondents

(By Advocate Mrs.Sumati Dandapani (R1&2) (rep.)

The application having been heard on 22.3.2000, the
Tribunal on the same day delivered the following:

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O R D E R

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

The applicant who is substantively a Gangman but working on adhoc basis as Driver applied for promotion as Driver pursuant to a notification issued on 13.3.98. There were three un-reserved vacancies and one vacancy each for SC and ST. 41 persons including the applicant were alerted. The applicant was at Sl.No.21 in the list A4 while respondents 3 to 6 were at Sl.Nos. 6 to 14 and 39 respectively. The applicant possess a Heavy Duty Driving Licence and is qualified to be appointed as a Driver. He has been given a certificate of merit for meritorious service in the year 1996. However, in the panel prepared after screening the applicant's name was not included whereas the names of respondents 3 to 6 have been included. The 6th respondent whose name at Sl.No.4 in the list is a person belonging to Scheduled Caste. The grievance of the applicant is that his superior merit has not been taken into account and the respondents 3 to 6 have been empanelled without a proper consideration of comparative merits. With these allegations, the applicant has filed this application seeking to set aside Annexure.A5 and for a declaration that the screening of respondents 3 to 6 in preference to the applicant for promotion to the post of Motor Vehicle Driver as illegal and that the applicant is entitled to be screened and empanelled.

2. Though the learned counsel for the respondents on the last date of hearing undertook to file a statement, no statement has been filed but she has stated that the applicant has no legitimate grievance as the applicant has appeared in the selection test along with

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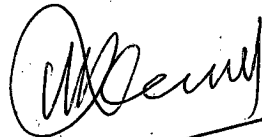
40 others and four of the more meritorious have been selected and empanelled.

3. Going through the application and the materials placed on record, we do not find any reason for judicial intervention in the matter. Selection and appointment are purely administrative and executive process. Judicial intervention would be required if it is made out at least prima facie that there has been a colourable exercise of power or any other vitiating circumstances. There is no allegation of malafides against the officer who conducted the selection. The applicant who was participated in a selection process but failed to be successful may have a heart burn that he has not been selected but that does not give him a legitimate cause of action. Out of the 41 candidates, only four have been selected and empanelled. Just like the applicant other persons also would have felt that their merits have not been properly assessed. Such thinking is highly subjective and will not give rise to a legitimate cause of action to maintain an application. The applicant forgets that he cannot be the best judge of his merit vis-a-vis merits of others. So long as there is no allegation of malafides against the selecting authority, or infraction of any rules in the process of selection, the Tribunal has no reason to intervene.

4. In the result, finding nothing in this application which calls for further examination, the application is rejected under Section 19(3) of the Administrative Tribunals Act. There is no order as to costs.

Dated the 22nd day of March, 2000


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

.4.

List of Annexures referred to:

Annexure.A4: True copy of Order No.J/P.608/IX/MVD/Vol.I
dated 21.12.98 issued by the 2nd respondent.

Annexure.A5: True copy of order No.J/P.608/IX/MVD/Vol.III
dated 9.2.99 of the 2nd respondent.

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