

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

OA No.235/87

1 TV Harindran
2 S Divakaran
3 B Panneer Selvan
4 A Ezhumalaiyan }
} Applicants

-Vs-

1 General Manager
Southern Railway, Madras }
2 Chief Personnel Officer
Southern Railway, Madras }
3 Divisional Railway Manager
Southern Railway
Trivandrum }
4 Divisional Personnel Officer
Southern Railway
Trivandrum }
} Respondents

M/s Chandrasekharan and
Chandrasekhara Menon : Counsel of Applicants
Mrs Sumati Dandapani : Counsel of Respondents

CORAM

Hon'ble Shri C Venkataraman, Administrative Member
and

Hon'ble Shri G Sreedharan Nair, Judicial Member

(Order pronounced by Hon'ble Shri C Venkataraman,
Administrative Member)

ORDER

There are four applicants in this case
and they have been working as Porters of different
categories in the pay scale of Rs 750- Rs940. These
posts come under Group D (Class -IV). The next

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avenue of promotion is Class III or Group C under $\frac{33}{5}$ per cent quota reserved for such promotion. In terms of Railway Board's order dated 13.11.68, the vacancies in Class IV were calculated for the period 1982-83 to 1983-84 in Trivandrum Division. Thereafter, for filling up 1/3rd of vacancies reserved for from Group D officials, a promotion examination was notified on 20.1.84. It is seen from a communication dated 18.2.86 issued by the Divisional Personnel Branch, Trivandrum that all the four applicants had appeared and passed the written test and they were alerted to be readiness for the viva-voce test. The applicants case is that they had appeared subsequently for the viva-voce test and fared well. Yet no panel was announced, nor was ~~there~~ any body appointed to a Group C post on the basis of the written and oral test conducted for the purpose. In the meantime, by proceedings dated 18.2.87, the Divisional

Personnel Branch intimated all the supervisory officials concerned in the operating and commercial branches that the selection from Class IV to Class III category conducted earlier was to be treated as cancelled due to administrative reasons. The applicants are aggrieved by this communication which has been filed in Annexure-6 to the application. They have prayed that immediate direction be issued to the respondents to restore the select list which was cancelled as a result of Annexure-6 having been issued. They have also sought a direction that they should be promoted as per the select list earlier prepared.

2 The contention of the learned counsel for the respondents while resisting the prayer in the application is that even though written examination followed by viva-voce test for those who have passed, took place the selection had not been finalised nor was any body empanelled for promotion to Group C post.

The counsel then submitted that 30 posts had

been transferred under General Manager's orders in July, 86 to the Headquarters and other divisions against 42 posts which had been transferred to Trivandrum Division very much earlier. Besides, there had also been a shrinkage in the number of posts in certain categories such as Switchmen, Telephone Operator and Signallers. Some posts under those categories had already been surrendered due to introduction of panel working. It had also been anticipated at this stage that some more hands would become redundant due to extension of panel working to other areas. Under these circumstances it was not considered necessary to go ahead with the finalisation of the panel on the basis of the written examination in 1984 and the subsequent interview of those who had passed the written examination. The learned counsel then submitted that a mere entry of a name in the list for promotion does not confer a legal right to

concluded stating
be appointed. She ~~suggested~~ that the applicants
will have to look forward for future promotions
on the basis of any future selection that may
be made for which the applicants are all
eligible to compete once again.

3 ^{Compendium of} We notice from the instructions on
selection filed as Annexure-5 to the application
that once selection proceedings ~~is~~ ^{are} started the
number of vacancies assessed shall not be
changed under any circumstances, but at the
same time in cases of departmental selection
from Class IV to Class III ~~we~~ ^{where a} ~~satisfied that~~
specific quota is ~~to be~~ fixed, the panel should
be announced only for the number of vacancies
reserved for them. In this case certain
number of vacancies were anticipated and the
selection process was initiated for filling
up of those posts. However, for reasons beyond
the control of any one in the Trivandrum
Division, a number of posts had to be transferred
out of the division to the Headquarters as well as

other divisions. Besides, as a result of the introduction of panel working, some posts had to be surrendered on their being rendered surplus. Therefore, even though the process of selection had been set in motion, it could not be ended until effected in the drawing up of a panel of persons who could be appointed against the vacancies between 1982 and 1984. Such a panel could have been finalised only if there was a possibility of immediate appointment of those figuring in the select list. While, that may be so, we are of the view that the applicants had taken the test in response to a specific notification from the respondents announcing the examination for selection. They had passed the written test and had been alerted for viva-voce test which also are stated to have been cleared. In the normal course they would have been justified in accepting a promotion to the Group C post against one of the vacancies. The only reason for ^{their} ~~whose~~ being deprived of such promotion to which they would have been

otherwise been entitled is the sudden non-availability of the vacancies. It is not the case of the railways that in future there are not going to be vacancies in Group C in the Trivandrum Division. If there are going to be such vacancies, there would also be $33\frac{1}{3}$ per cent of those vacancies reserved for those who can be promoted from Group D posts. For future vacancies normally the respondents would be announcing one more examination in which all eligible persons will have to participate and get selected before they can be promoted. However, considering the some what peculiar circumstances of this case where certain persons like the applicants had already passed, both the written and viva-voce test and would ordinarily have been appointed to Group C posts against anticipated vacancies, but for the fact that a large number of posts had to be transferred out of the division, it is only in the fitness of things that the respondents instead of notifying a fresh selection for filling up vacancies in the immediate future, complete the process of

drawing up a panel based on the selection which was initiated in 1984. In case the applicants had already passed both the written and viva-voce tests on the last occasion their names should be included in the panel and out of that panel promotions should be made for Group C vacancies which may arise in Trivandrum Division in the immediate future. We direct the respondents accordingly.

4 The application is disposed of as above.

24.6.88
(G Sreedharan Nair)
Judicial Member
24.6.88

24.6.88
(C Venkataraman)
Administrative Member
24.6.88

Index: Yes/No