

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM

O. A. No. 320/90 499
~~124X2006.~~

DATE OF DECISION 16.7.90

K. Sadanandan Applicant (s)

M/s K.Ramakumar & Advocate for the Applicant (s)
V.R.Ramachandran Nair
Versus

Union of India rep. by Respondent (s)
General Manager, Southern Railway,
Madras and 2 others.

Smt. Sumathi Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. A.V.Haridasan, Judicial Member

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

JUDGEMENT

(Shri S.P.Mukerji, Vice Chairman)

In this application dated 17.4.90 filed under section 19 of the Administrative Tribunals Act the applicant who has been working as a Catering Supervisor Grade-I in the Southern Railway has prayed that the selection call notice dated 13.11.89 at Annexure-G should be set aside and that the respondents directed not to revert the applicant from the post of Catering Supervisor Grade-I. The brief facts of the case are as follows:

2. The applicant joined the Railways as Cleaner in the Catering Department on 1.1.63 and through various stages

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of promotion was promoted as Assistant Manager in the scale of Rs 260-430 on an adhoc basis on 11.2.77. He was regularised as Assistant Manager from 1.10.80 and promoted as Catering Supervisor Grade-II in the scale of Rs 330-560 on 1.1.84. On 17.12.87 he was promoted as Catering Supervisor Grade-I in the scale of Rs 425-640 on an adhoc basis. He belongs to the Scheduled Caste community. For regular selection as Catering Supervisor Grade-I the applicant appeared in the selection test in 1986 but the results were not intimated to him. On his adhoc promotion as Catering Supervisor Grade-I he presumed that he had passed the test. He has been continuing as Catering Supervisor Grade-I since then and according to him, he had earned a number of commendations for his good service. He is aggrieved by the fact that he, along with others, was called to appear in the selection test for the post of Catering Supervisor Grade-I by the impugned order at Annexure-G. He protested against his being called for selection test again on and passed the ground that he had already appeared in the test in 1986 for the same post.

3. According to the respondents, the applicant did not qualify in the selection test conducted in 1986 but as a Scheduled Caste candidate he was allowed to officiate purely on an adhoc basis as Supervisor Grade-I.

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Actually he had failed to secure the qualifying marks i.e. 10/35 in accordance with the relaxed standard prescribed for SC candidates as against qualifying marks of 21/35 for general candidates. Since there were other SC employees who secured qualifying marks in the written test, the applicant having failed in the written test, even by relaxed standards, was not called for interview. The results of the selection after the interview were published excluding the applicant, and only the selected candidates were intimated. Since the applicant had not been selected, the question of intimating him about the failure did not arise. For filling up 14 posts of Supervisor Grade-I, employees in the Grade-II, as also including the applicant those ~~who~~[&] were officiating in Grade-I on adhoc basis, were called for taking the written test held on 2.12.89. Of the 14 posts two were reserved for SC and 1 for ST. The applicant also, along with other SC candidates, was invited to attend the selection test. According to the respondents, there was nothing wrong in inviting the applicant who had failed in the 1986 test to appear in the selection test of 1989 for regular appointment to Grade-I. They have stated that the applicant cannot exclusively get the benefit of appreciation ^{of good performance} which was given as a group award. They have categorically stated that the averment of the applicant that he had passed

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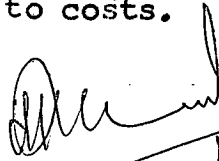
the selection test held in 1986 is not correct.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned counsel for the respondents produced the records of the test held in 1986. It was revealed that the applicant had obtained 12 marks out of 100 in the written test and thus he failed to qualify for selection. The fact that he was allowed to officiate on a purely adhoc basis from 1987 does not entitle him to be regularised without passing the qualifying selection test held for every candidate. An adhoc appointee has no right to the post as against a regular appointee merely as a member of the Scheduled Caste. The applicant did not qualify even by the relaxed standards. The argument of the learned counsel for the applicant that by clubbing the vacancies of more than one year the zone of consideration had been unduly expanded cannot be accepted since the applicant individually failed to qualify in the 1986 test. Even if there was only one and that too single vacancy reserved for a Scheduled Caste candidate and he was only the eligible candidate, he would not still have been appointed to the post as he failed to qualify in the written test. Though reservation and relaxed standards can be applied to the members of the Scheduled Caste, that by itself would not entitle complete

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obliteration of a minimum tolerable limit of eligibility and suitability. Just as 100 percent reservation for any community cannot be permitted, 100 percent relaxation of eligibility or qualifying marks cannot be held to be permissible even under the Constitution.

5. In the facts and circumstances, we see no merit in the application and dismiss the same without any order as to costs.


16.7.90

(A.V. Haridasan)
Judicial Member


16.7.90

(S.P. Mukerji)
Vice Chairman