

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.236/89.

Date of Judgement 19.6.1992

K.Narayana Murthy

.. Applicant

Vs.

1. Union of India, Rep. by Secretary(Establishment), Railway Board, Rail Bhavan, New Delhi-110001.
2. The General Manager, S.C.Rly., Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer, S.C.Rly., Rail Nilayam, Secunderabad. .. Respondents

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Railways

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

[Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

This application has been filed by Shri K.Narayana Murthy under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, Rep. by Secretary(Establishment), Railway Board, Rail Bhavan, New Delhi-110001 & 2 others with a prayer to quash the test already conducted for selection to Group 'B' posts in the Personnel Department and also to declare the letter No.P/607/GAZ/PB/88 dt. 13.7.88 of the Chief Personnel Officer as illegal.

2. The applicant is working as a Personnel Inspector Grade-I in the Office of the Chief Personnel Officer, S.C.Rly., Secunderabad. He is eligible to compete for the post of Asst. Personnel Officer which is a Group 'B' post. The Chief Personnel Officer, Secunderabad vide his impugned letter dt. 8.4.88 called for applications to fill up 11 vacancies of Asst. Personnel Officer. Subsequently, vide his letter of even number dt. 13.7.88, he increased the number of vacancies

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to 16, the increase of 5 being the result of upgradation of 5 Group 'C' posts to Group 'B'. The Railway Board vide its letter No.88/E(GC)12-27 dt. 5.12.88 announced the upgradation of Group 'C' posts to Group 'B' reportedly earmarking the posts for each Department. Pursuant to that letter, a written test was conducted on 22.10.88 and on 27.12.88. While the Chief Personnel Officer announced the test, he threw open the 5 posts to other persons from the non-Personnel Department also, instead of keeping the 5 posts exclusively for the staff of the Personnel Department. Apart from alleging that the Chief Personnel Officer had on his own thrown open the 5 vacancies to non-Personnel Department staff also, the applicant alleges that there is yet another violation of the Railway Board ^{order} letter in that, instead of holding the examination in two stages, one for 3 posts and the other for 2 posts, the S.C.Railway had held the examination for all the 5 posts at the same time. The applicant alleges that this action of the Chief Personnel Officer is against the Railway Board letter dt. 5.12.88 and, therefore, seeks our intervention to declare ~~the letter and the examination as~~ illegal.

3. The application is contested by the respondents who have filed a counter affidavit. It is contended that the Railway Board letter had strictly been followed on both the charges fully in accordance with the Railway Board letter and the charges of the applicant are baseless. Our attention is drawn to para 3 of the Railway Board letter whereby the upgraded posts are to be treated as 'General' posts to be thrown open to all eligible staff. As regards a common test for all the 5 posts instead of in two stages it is stated that the purport of the letter that 75% of the vacancies only should be filled upto March, 1989 and balance 25% after March, 1989 is only a mode of operation keeping in view of the liability during the financial year concerned. It is stated that the selection is usually a time consuming process and no useful purpose would be served by subjecting the very same staff to attend the selection proceedings repeatedly at short intervals....3

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4. A rejoinder has been filed by the applicant which is more or less a repetition of the application.

5. We have examined the case and heard the rival sides.

A copy of the Railway Board letter dt. 5.12.88 relied upon by both sides is available at page 5 of the material papers to the application. A copy of this was endorsed to the various units by the S.C.Railway vide letter dt. 19.12.88 available at page 4 of the material papers to the application. We have seen para 3 of the Railway Board letter dt. 5.12.88 which says that the upgraded posts will be treated as 'General' posts to be thrown open to all eligible staff in the various streams of a department. This statement of the Railway Board is very clear. ~~in that~~ In upgradation only posts had been created and ~~the usual~~ recruitment rules and ^{other} procedures are to be adhered to. The applicant on the other hand contends, drawing our attention to para 6, that the posts upgraded should have standard designations as provided in the relevant recruitment rules. If, however, it is considered inescapable to give a new designation to any of the upgraded posts, the matter should be referred to the Ministry. It is the case of the applicant that the 5 posts created in the Personnel Department should be kept exclusively for the staff of the Personnel Department only and should be designated as Office Superintendent (Gazetted) as in Group 'B' as distinct from the normal Office Superintendents in Group 'C'. On this point it was stated before us that there is no such standard designation as Office Superintendent (Gazetted). On the other hand, the declaration of the Chief Personnel Officer, S.C.Railway that these 5 posts are to be designated as Asst. Personnel Officers is quite in consonance with the Railway Board letter since this is a standard designation. ~~seen~~ It is ~~seen~~ that para 6 of the Railway Board letter dt. 5.12.88 which the applicant chose to rely upon does not help him. We have, therefore, come to a clear conclusion that the designation of the 5 posts as Asst. Personnel Officers to be filled up in the normal course is quite legal.

To

1. The Secretary (Establishment),
Union of India, Railway Board, Railbhavan, New Delhi-1.
2. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
3. The Chief Personnel Officer, S.C.Rly, Railnilayam
Secunderabad
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. Copy to All Reporters as per standard list of CAT.Hyd.
7. One copy to Deputy Registrar(J)CAT.Hyd
8. One copy to Hon'ble Mr.C.J.Roy, Member(J)CAT.Hyd.
9. One spare copy.

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6. As regards the second contention, para 9 of the Railway Board letter dt. 5.12.88 states that 75% of the upgraded posts on regular basis should be filled up before 31.3.89 and the remaining 25% immediately thereafter. The intention is clear that 4 posts (3½ rounded off) should be filled up in the financial year ending 31.3.89 and the remaining post should be filled up in the year immediately thereafter. There is considerable force in what the respondents have contended that it would be unnecessary to conduct two tests just to fill up 4 posts in a particular year and one post in the year immediately thereafter. The emphasis is on filling up the posts and not on conducting the tests and on this point also we find that the action of the respondents is quite in order.

7. Our attention was drawn by the learned counsel for the respondents, ^{5 the fact} that the applicant who initially agreed to abide by the rules and appeared for the examination, ~~when he failed~~ ^{and has} sorts of ~~he~~ started raising all ~~irrelevant~~ questions about the legality of the tests conducted. It is their case that having submitted himself to the examination and after failing he is estopped from questioning the very examination in which he appeared and failed. The learned counsel for the applicant stated that the results of the examination are being questioned in a separate O.A. Since we have already decided that there is no illegality whatsoever in the action of the respondents, it is not necessary for us to go into this question. We, therefore, choose not to go into this question as it is unnecessary.

8. Summing up, we find that the action of the respondents is quite in order and dismiss the application with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)
Member(A).

Dated: 19th June, 1992.

Ch. Roy
(C.J.Roy)
Member(J).

S. Balaji
Deputy Registrar (J).

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22/6/92

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.
THE HON'BLE MR.

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY :
MEMBER(J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER(J)

Dated: 19-6 -1992

ORDER / JUDGMENT

A / C.A. / M.A. NO.

in

O.A.No. 236/89

T.A.No.

(W.P.No.

Admitted and interim directions
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A.Ordered/Rejected.

No order as to costs.

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