

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

O.A. No. 288/89.

Dt. of Decision : 10.6.1993.

~~T.A. No.~~

N.T.Singh & 4 others

Petitioner

Shri K.S.Murthy for Shri V.Rama Rao

Advocate for
the petitioner
(s)

Versus

General Manager, S.C.Rly., Secunderabad & Another

Respondent.

Shri D.Gopal Rao, SC for Railways

Advocate for
the Respondent
(s)

CORAM

THE HON'BLE MR. A.B.Gorthi : Member(A)

THE HON'BLE MR. T.Chandrasekhar Reddy : Member(J)

1. Whether Reporters of local papers may be allowed to see the judgement? ✓
2. To be referred to the Reporters or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circuisted to other Benches of the Tribunal? ✓
5. Remarks of Vice-Chairman on Columns. 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

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M(J).

HABG

M(A).

(520)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.288/89.

Date of Judgement : 10.6.1993.

1. N.T.Singh
2. K.S.Nair
3. K.S.B.Lawrence
4. Y.Venugopal Rao
5. I.Manikya Rao .. Applicants

Vs.

1. General Manager,
S.C.Rly., Secunderabad.
2. Govt. of India, Rep. by its
Secretary/Chairman,
Railway Board, New Delhi.. Respondents

Counsel for the Applicants :: Shri K.S.Murthy for
Shri V.Rama Rao

Counsel for the Respondents:: Shri D.Gopal Rao,
SC for Railways

CORAM:

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhar Reddy : Member(J)

[Judgement as per Hon'ble Shri A.B.Gorthi : Member(A)]

All the 5 applicants herein are working as Station Masters/Asst. Station Masters in S.C.Rly., and are aged between 45 and 50 years at the time of filing the application. Their prayer is that the Railway Board's policy letter dt. 15.5.87 on the subject of recruitment of Traffic/Commercial Apprentices be declared as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution. Their further prayer is not to fill the vacancies in non-selection grade of Rs.1600-2660 in regard to Station Masters and Traffic Inspectors.

2. The applicants are working as Station Masters/Asst. Station Masters in S.C.Rly., for more than 20 years. They were promoted to the grade of Rs.1400-2300 w.e.f. 1.8.82. The next grade of pay is Rs.1600-2660. The Railways introduced the scheme of recruitment of Traffic and Commercial Apprentices in the scale of Rs.1400-2300/ Rs.1400-2600. The minimum qualification prescribed for recruitment

of Traffic/Commercial Apprentices is a University degree with Law as an additional qualification for Commercial Apprentices. Diploma in Rail Transport and Management from the Institute of Rail Transport will be deemed an additional qualification. The said scheme was modified by the Railway Board on 15.5.87. Consequently, future recruitment of the Apprentices was to be made in the grade of Rs.1600-2660. Traffic Apprentices, absorbed in the cadre of Section Controllers in the scale of Rs.1600-2660 will be fixed at the starting pay of Rs.1600/- on absorption. The scheme further envisaged vide clause (xiv) of para 2 as under:

"(xiv) For recruitment notified upto 31.12.1990, the upper age limit for serving Traffic/Commercial Apprentices who have been recruited in scale Rs.455-700(RS)/1400-2300(RP) and Rs.470-750(RS)/Rs.1400-2600(RP) including those who are undergoing training will be raised as under, as against the upper age limits applicable as per extant orders:-

- (a) For candidates appearing in the departmental competitive examination - 50 years.
- (b) For candidates appearing against open market direct recruitment quota under age relaxation applicable to serving employees - 45 years.

The above concession in age limit will not be applicable to serving graduates in the Traffic and Commercial Departments who will be volunteering/opting for respective quotas in the normal course. In their case normal rules regarding relaxation in age limit for serving employees will only apply."

The applicants feel aggrieved by the above scheme for several reasons. Firstly, they contend that there cannot be two grades of pay, one for those recruited as Traffic Apprentices and another for those serving as Asst. Station Masters. Secondly, even the grant of a higher grade from a prospective date ignoring the claim of Traffic Apprentices already recruited will also be discriminative. Thirdly, relaxation of the age limit granted to those belonging to the category of Commercial/ Traffic Apprentices and denying the same to serving Graduates in the Commercial Department is discriminatory and violative of Articles 14 and 1 of the Constitution.

3. The respondents in their reply affidavit have clarified that for the purpose of recruiting better quality candidates as Traffic/Commercial Apprentices, a policy decision was taken at the higher level to make future recruitment in that category in the grade of Rs.1600-2660. As per the modified scheme introduced in May, 1987 recruitment of Traffic/Commercial Apprentices would continue and the prevalent quota of 15% for direct recruitment from open market and 10% for departmental candidates through limited departmental competitive examination from amongst serving Graduates in Traffic/Commercial Departments will continue to apply. Apprentices already under training will be absorbed in the scale of Rs.1400-2300/1400-2600 as the case may be. However, certain relaxation in upper age limit has been permitted as aforesaid.

4. The question of grant of higher grade of Rs.1600-2660 to all Traffic/Commercial Apprentices irrespective of the fact whether they were recruited prior to the issuance of the modified scheme or thereafter became the subject matter of several cases decided by the Tribunal. By means of a judgement dt. it was held that the higher grade of Rs.1600-2660 would be available to Traffic Apprentices w.e.f. the dates of completion of their training on absorption. The various benches which considered the modified scheme, however, categorically upheld the validity of the scheme as such. We also find that there is reasonable nexus between the scheme introduced and the objective sought to be achieved in the said scheme i.e., as already stated for the purpose of attracting better talent and for introducing a higher grade of Rs.1600-2660.

5. Shri K.S.Murthy, learned counsel for the applicants has drawn our attention to the additional affidavit filed by the applicants wherein it has been contended that once the Traffic Apprentices enter the Asst. Station Master's cadre they cease to be Traffic Apprentices any more. Once appointed to the regular category, there should be no further distinction between these Apprentices and rankers in the matter of their pay.

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He has also drawn our attention to para 103 under Section B of Chapter I of Indian Railway Establishment Manual. We are not convinced with this argument because from the scheme itself it is very clear that it was introduced for the purpose of improving the quality of staff in the Traffic/Commercial Departments. As regards the introduction of higher grade of pay of Rs.1600-2660 is concerned, as has already been stated, the same has been held to be valid by several benches of the Tribunal and the benefit of the same has been extended uniformly to all the Traffic/Commercial Apprentices.

6. An important issue that has been vehemently contended by the learned counsel for the applicants is that in respect of the Traffic/Commercial Apprentices ^{to appear for the examination} the age limit for getting into the higher grade of Rs.1600-2660 has been relaxed vide clause (xiv) of para 2 of the modified scheme dt. 15.5.87. The said clause, however, makes it very clear that the above concession ^{not} would be given to the serving Graduates in the Traffic/Commercial Departments. Subsequently, when the applicants ^{wanted to} sit for the specified examination for qualifying for the higher grade of Rs.1600-2660 they were denied permission to do so on the ground that they were above the age of 40 years. Shri D.Gopal Rao, learned counsel for the respondents has clarified that the policy letter dt. 15.5.87 exclusively dealt with the recruitment of ^{in the 25% quota} Traffic/Commercial Apprentices. As the grade of pay of such Apprentices was raised from Rs.1400-2600 to Rs.1600-2660, it was laid down that for recruitment in that cadre upto 31.12.90 the upper age limit for serving Traffic/Commercial Apprentices already recruited in the lower grade would be 50 years in respect of candidates appearing in the departmental competitive examination and 45 years in respect of direct recruits from open market. This relaxation of age limit was restricted only to Traffic/Commercial Apprentices. It was not intended to give a similar relaxation in respect of serving Asst. Station Masters etc.

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of the Traffic/Commercial Departments for whom the normal avenue of getting into the higher grade of Rs.1600-2660 remained available. In other words, such employees of the Traffic/Commercial Departments should seek the higher grade of pay against the 75% quota available for promotees.

7. On the question whether laying down separate age limits for securing the higher grade of Rs.1600-2660 for Traffic/Commercial Apprentices and for serving Graduates in the Traffic/Commercial Departments we may refer to the case of All India Station Masters Association and Others Vs. General Manager, Central Railway and Others X (1960) 2 SLR 311 X wherein the Hon'ble Supreme Court has observed as under:

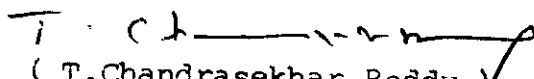
"There is, in our opinion, no escape from the conclusion that equality of opportunity in matters of promotion must mean equality as between members of the same class of employees and not equality between members of separate, independent classes..... Equality of opportunity in matters of employment can be predicted only as between persons, who are either seeking the same employment or have obtained the same employment."

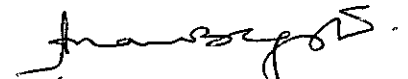
Accordingly, candidates who are recruited as Traffic/Commercial Apprentices and given the higher grade of Rs.1600-2660 cannot be treated as equal with Asst. Station Masters in the grade of Rs.1400-2300. Traffic/Commercial Apprentices who are initially brought in the grade of Rs.1400-2300 and Asst. Station Masters in the grade of Rs.1400-2300 cannot be viewed as equals for all purposes. In that view of the matter when the Railway Board has decided to grant the higher grade of Rs.1600-2660 to the Traffic/Commercial Apprentices the same cannot be extended to Asst. Station Masters also. For the same reason when an age limit relaxation has been granted to the Traffic/Commercial Apprentices in the grade of Rs.1400-2300/^{Rs.1400-2600} the same cannot by logic be extended to the Asst. Station Masters also so as to make the latter category eligible for taking the relevant examination with the help of a relaxed age limit. To conclude, we are of the view that the respondents are justified in not granting relaxation

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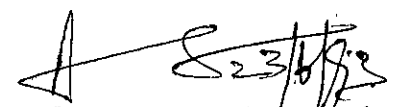
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of the age limit to the Asst. Station Masters also for the purpose of securing the benefit of the higher grade of Rs.1600-2660. In view of what is aforesaid we are unable to accept the various contentions raised in the application. The application is dismissed. There shall be no order as to costs.


(T. Chandrasekhar Reddy)
Member (J).


(A.B. Gorthi)
Member (A).

Dated: 10 June, 1993.

(Dictated in Open Court)  Deputy Registrar (J)

br.

To

1. The General Manager, S.C.Rly, Secunderabad.
2. The Secretary/Chairman,
Govt. of India, Railway Board, New Delhi.
3. One copy to Mr. V. Rama Rao, Advocate, 3-6-779, 14th street
Himayatnagar, Hyderabad.
4. One copy to Mr. D. Gopal Rao, SC for Rlys CAT. Hyd.
5. One copy to D.R. (J) CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. Copy to All Benches and Reporters as per standard list of CAT. Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTY : MEMBER (AD)

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated : 10 - 6 - 1993

ORDER/JUDGMENT

M.A. / R.A. / C.A. No.

in

O.A.No.

288/89

T.A.No.

(w.p.)

Admitted and Interim directions
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/ Ordered

No order as to costs.

