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(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.994/89; OA.995/89;  
OA.25/90 & OA.26/89.

Date of decision : 9-3-1993

Between

1. M. Guruswamy
2. D. Subbaiah &
3. M. Sudhakar

: Applicants in OA.994/89

1. D. Venkateswarlu
2. P. Narayana
3. B. Devada
4. S. Venkaiah
5. M. Masthan
6. T. Bose
7. T. Koteswara Rao &
8. T. Venkateswarlu

: Applicants in OA.995/89

1. Syed Kalesha
2. Y. Venkaiah &
3. Shaik Khader

: Applicants in OA.25/90

1. Devarapalli Malakondaiah
2. M. Malyadri

: Applicants in OA.26/90

and

1. The Divisional Railway Manager  
South Central Railway  
Vijayawada

2. Sr. Divnl. Personnel Officer  
South Central Railway  
Vijayawada

3. Assistant Engineer  
South Central Railway  
Bitragunta

4. Permanent Way Inspector  
South Central Railway  
Nellore

: Respondents in all the four OAs

Counsel for the Applicants  
in all the OAs

: P. Krishna Reddy, Advocate

Counsel for the Respondents  
in all the OAs

: N.R. Devaraj, Standing  
Counsel for Railway

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CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. BALASUBRAMANIAN, MEMBER (ADMINISTRATION)

Judgement

(Orders as per Hon. Mr. Justice V. Neeladri Rao, VC)

As the same point is involved in all these four OAs, they are considered together. The applicants in all these OAs joined service as Gangman in PWI, Nellore/Bitragunta. During the year 1988, the Railway Board has sanctioned number of posts both in Artisan and Non-Artisan categories under decasualisation vide their letter No.P(E)407/Decasualisation/Engg.II, dated 9-1-1989. Accordingly, a number of posts in the categories of Artisan Khalasis were created under PWI, Nellore and Bitragunta. Assistant Engineer, Bitragunta was the appointing authority for the posts of Artisan Khalasis. He initiated action to fill up the posts as per the then existing instructions which were issued by the Senior DPO, Vijayawada vide letter No.B/P.612/VII/CL-IV Vol.II, dated 6-1-1983. The above instructions postulate that the volunteers from the regular staff of the respective units have to be subjected to the aptitude test. It further lays down that the number of volunteers to be qualified for aptitude test should be equal to the number of vacancies. From amongst the volunteers, the seniormost required number have to be called for the aptitude test. If the seniors are found unfit, the next in seniority has to be called for the aptitude test.

2. It is case of the applicants that the above procedure was adopted and on the basis of the results of the aptitude

test, they were found suitable and they were posted as Artisan Khalasis as per order dated 2.7.1989, in the pay scale of Rs.750-940 vide ~~Office~~ Order No.18/89 issued by Assistant Engineer, Bitragunta.

3. The South Central Railway Mazdoor (SCRM) Union represented in ~~its~~ 61st Permanent Negotiations Machinery (PNM) <sup>meeting</sup> held ~~that~~ <sup>at</sup> the Divisional Railway Manager, Vijayawada, that more than one person was called for the aptitude test and consequently ~~most~~ <sup>more junior</sup> employees were appointed as Artisan Khalasis. Then the DRM, agreed to cancel the aptitude test conducted by Asstt. Engineer, Bitragunta, and also the consequent postings as Artisan Khalasis. Then the impugned orders <sup>dated 19-12-89</sup> were passed reverting the applicants, ~~dated 19-12-1989~~ as Gangman. The same ~~was~~ <sup>is</sup> challenged in these OAs.

4. While it was asserted for the applicants that the instructions ~~as per~~ <sup>as</sup> the letter dated 6-10-1983 were followed and the number of volunteers called for the aptitude test ~~does~~ <sup>did</sup> not exceed the number of vacancies of Artisan Khalasis, ~~which~~ <sup>it</sup> was averred as under in the sub para 2(b) of the counter: "As contended by the applicants, the aptitude test was conducted by AEN/BTR to all the volunteers in 1:1 ratio on various dates till a volunteer is found suitable in the aptitude test." In the process of selection, the applicants who are the juniors in the seniority list have been found suitable after the seniors have been found unsuitable in the aptitude test."

5. In view of the above categorical averment in the counter the contention for the applicants that the number of volunteers called for the aptitude test is not more than the number of vacancies at any time ~~have~~ <sup>has</sup> to be upheld. ~~Any~~ <sup>No</sup> other irregularity


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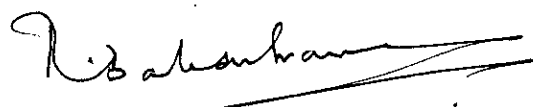
in selection of the applicants as Artisan Khalasis <sup>is</sup> pointed <sup>out</sup> for the respondents. The mere allegation by the members of the Union that there were irregularities in the selection cannot be the basis for the cancellation of this selection that was duly made. <sup>Another</sup> ~~Yet other~~ infirmity in the impugned order is that the cancellation was made even without giving notice to the affected parties i.e. the applicants herein.

6. Of course it is also averred in the counter that the 40 Point Roster was not adhered to while filling up the post of Artisan Khalasis. But the necessary particulars are not stated in the counter. Further, that is not the reason given in the impugned orders for cancellation of the selection and posting of the applicants as Artisan Khalasis.

7. For the reasons stated above, the impugned orders are liable to be quashed and accordingly they are quashed.

8. The OA s are allowed accordingly. No costs.

  
(V. Neeladri Rao)  
Vice-Chairman

  
(R. Balasubramanian)  
Member(Admn)

Dated : March 9, 93  
Dictated in the Open Court

  
Deputy Registrar(J)

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To

1. The Divisional Railway Manager, S.C.Rly, Vijayawada.
2. The Se.Divisional Personnel Officer, S.C.Rly, vijayawada.
3. The Assistant Engineer, S.C.Rly, Bitragunta.
4. The Permanent Way Inspector, S.C.Rly, Nellore.
5. ~~One copy~~ <sup>4</sup> to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC. for Rlys, CAT.Hyd.
7. One spare copy.

pvm

TYPED BY *WJG* COMPARED BY *WJG*  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CHECKED BY APPROVED BY  
HYDERABAD BENCH  
HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. *Justice V. Venkatesh Rao* V.C.

AND

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

AND

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

AND

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

Dated: 9-3-1993

ORDER/JUDGMENT:

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

in

O.A.No. 994/89, 995/89  
T.A.No. 25/90 & 26/90 (W.P.No. )

~~Admitted~~ and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

