

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD
Wednesday the thirty first DAY OF May
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

: PRESENT :-
D. Surya Rao Member (J)
THE HON'BLE MR. AN. JAYA SINGH : VICE CHAIRMAN.
AND
THE HON'BLE MR. P. K. Chakravarty Member (A)

ORIGINAL APPLICATION NO. 413 OF 1989

BETWEEN:-

~~Miss S. Bharethy~~
~~Miss S. Bharethy~~ ~~Bhoretha~~

..Applicants

A N D

1. The secretary, (Establishment),
Railway Board, Rail Bhavan,
New Delhi - 110001.
2. The General Manager,
South Central Railway, Rail Nilayam,
Secunderabad.
3. The Chief Personnel officer,
South Central Railway, Rail Nilayam,
Secunderabad.
4. The Chairman, Railway Recruitment Board,
IRISET Complex, Tarnaka Road,
Secunderabad - 500017.
5. The Senior Personnel officer,
South Central Railway, Rail Nilayam,
Secunderabad - 500371.
6. The Senior Divisional Personnel officer,
South Central Railway, Vijayawada Division, Vijayawada
520002
5. The Senior Divisional operating Superintendent,
South Central Railway, Vijayawada Divn. Respondents.
Vijayawada - 520002.

..Respondents

27

ORIGINAL APPLICATION NO. 413/1989

(ORDER OF THE TRIBUNAL DELIVERED
BY HON'BLE M(J)SHRI D.SURYARAO)

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We have heard the learned counsel for the applicant Shri V. Venkateswara Rao and the learned Standing Counsel for the Railways, Shri N.R.Devaraj, for the respondents.

2. The applicant herein seeks to question the show-cause notice no.B/P.Con.227/III/89/2 dated 8-5-1989 which reads as follows :-

"While serving as Junior Clerk, Sr.DDS Office/BZA you have applied for the post of Senior Clerk, in the scale Rs.1200-2040(RSRP) against 13-1/3% quota meant for serving Graduate Jr. Clerk for the vacancies meant for the period 2-10-1980 and onwards upto 30-9-1985 in response to the notification letter No.P(RC)563/19/VI(Part-I) dated 30-9-1985 and 16-10-1985 wherein the time for receipt of applications was extended.

Though you are not in service as on 30-9-1985 you have applied for the same and your application was inadvertently forwarded to RRB/SC and you are selected and promoted as Sr.Clerk under this quota erroneously.

Since you are ineligible to be considered under this quota inasmuch as you are not service as on 30-9-1985, you did not satisfy the conditions prescribed for the purpose.

Your selection and promotion under 13-1/3% quota as Sr. Clerk constitutes an irregularity. Therefore, to set right the irregularity, it is proposed to revert you as Junior Clerk in scale Rs.950-1500 (RSRP) with immediate effect.

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28

- page two -

Please therefore show cause as to why you should not be reverted as Junior Clerk as proposed. Your representation should reach the undersigned within 15 days from the date of receipt of this notification failing which it will be construed that you have no representation to make and action as proposed will be taken."

Shri N.R. Devaraj, learned Standing Counsel for the
takes preliminary objection
Railways/~~xxxxxx~~ that the application is premature as
the applicant has not submitted any reply or appeal to/
against the said show cause notice. Admittedly, the
applicant has not submitted any reply to the said show
cause notice and on the other hand seeks to contend in
this application that the fourth respondent has no
jurisdiction to issue the said show cause notice unless
her initial selection is cancelled. It is further con-
tended that even if the initial recruitment was illegal,
the applicant has a right to continue in the post as she/
cannot be held responsible for the mistake of the Depart-
ment. This is particularly so, as more than two years have
elapsed since her selection and appointment to the higher
post of Senior Clerk. In ^{our} ~~my~~ view, the application is
premature. All the contentions raised in this applica-
tion can as well be raised before the fourth respondent
in reply to the impugned show cause notice. The appli-
cant is given time till 17-6-1989 for filing her reply
to the show cause notice dated 8-5-1989 to the fourth


contd..


- page three -

respondent and the respondents will consider and duly dispose of the same expeditiously. In the mean while, during the pendency of her representation / explanation to the show cause notice dated 8-5-1989, the applicant will not be liable to be reverted from the present post of Senior Clerk which she is occupying.

3. With the above directions, the application is disposed of as premature. There will be no order as to costs. Extra copies of the application may be returned to the counsel for the applicant.

(dictated in open court)


(D. SURYA RAO)
Member (Judl.)


(D.K. CHAKRAVORTHY)
Member (Admn.)

DATED 31st MAY, 1989.

RSR°


15/6/89
Deputy Registrar (A)

P-5
1