

(93)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A.No.593/89.

Date of Judgement 4/12/1992

1. Y.S.V.S.Shanker Rao Bavaji
2. G.S.Vijaya Kumar
3. B.G.Jayakumar
4. M.Shaheed Ali
5. B.S.Murthy
6. T.K.Sudarshan
7. R.Taruneshwar
8. Smt. S.Sudarshana Devi
9. Y.Bhima Rao
10. M.Y.Madaki .. Applicants

Vs.

1. The Secretary (Establishment),
Railway Board, Rail Bhavan,
New Delhi.
2. The General Manager,
S.C.Rly., Rail Nilayam,
Secunderabad-500371.
3. The Chief Personnel Officer,
S.C.Rly., Rail Nilayam,
Secunderabad-500371.
4. The Chief Electrical Engineer,
S.C.Rly., Rail Nilayam,
Secunderabad-500371.
5. B.V.Chalapathi Rao
6. A.Venkateswara Rao
7. S.Nagendran
8. R.Venkataramaiah
9. R.Raghavendra Prasad
10. Smt. K.Prema Kumari
11. G.Narayana
12. Y.Surender Rao
13. K.Murari
14. Abdul Quddus
15. M.Shankaraiah
16. B.Narasimha Rao
17. K.B.Rajendra Prasad
18. R.V.Chimalgi
19. Ch.Sailu
20. Manda Winston
21. B.Jayapal
22. G.Vijayakumar
23. N.Venkata Rao
24. A.Ramesh
25. A.Venkateswara Rao
26. M.Uma Maheswara Rao
27. K.Nageswara Rao
28. V.Muralidharan
29. M.S.V.Subba Rao
30. Smt. T.Koteswaramma
31. K.Satya Saibaba
32. G.Sai Kumar
33. K.Ravi Kumar
34. B.Saibaba
35. S.Venkata Rao
36. R.N.Hari Shankar Rao
37. Raveendra Babu
38. P.Rama Koteswara Rao
39. J.Sambaiah
40. Ashok S.Gaikwad
41. B.Balender .. Respondents

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

Counsel for the Respondents : Shri N.Rajeswara Rao for
Shri D.Gopal Rao, SC for Rlys. &
Smt. P.Sarada for
Shri P.Krishna Reddy (for
Respondents No.11, 12, 13, 19, 21,
23, 34 & 35).

CORAM:

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

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

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

This application has been filed by Shri Y.S.V.S.Shanker Rao Bavaji & 9 others against the Secretary(Establishment), Railway Board, Rail Bhawan, New Delhi & 40 others. Respondents No.5 to 41 are private respondents. The prayer herein is to set aside the seniority list published by the Chief Personnel Officer, S.C.Rly., Secunderabad vide his letter No.P(EL)612/DO dt. 16.12.88 and to assign the applicants their due positions with all consequential benefits.

2. The applicants are working as Asst. Draftsmen in the Drawing Office of the Electrical Branch of the Railways. They were originally selected as Tracers. The Railway Board vide its letter dt. 25.6.85 addressed to General Managers had given certain instructions regarding the restructuring in Group 'C' and 'D'. In that letter a decision to progressively abolish the cadre of Tracers was also conveyed and that in future the vacancies in the cadre of Asst. Draftsmen would be filled up by Diploma Holders from the open market by direct recruitment. Till such time the incumbents in the posts of Tracers were to be promoted as Asst. Draftsmen by promoting the Diploma Holders/Certificate Holders straightaway and in the case of others like the applicants who do not possess Diploma/Certificate by promoting them as Asst. Draftsmen on completion of 5 years of service as Tracers.

The applicants question the validity of the Railway Board order dt. 25.6.85 as one contrary to the statutory recruitment rule which ~~does not discriminate between Diploma Tracers and non-Diploma Tracers.~~ does not discriminate between Diploma Tracers and non-Diploma Tracers. The Chief Personnel Officer went ahead and published a provisional seniority list of Junior Draftsmen (Asst. Draftsmen under his letter No.P(EL)612/DO dt. 16.12.88 which has completely changed the seniority position of Tracers published on 1.1.85. Aggrieved, the applicants represented on 23.12.88. By a letter dt. 7.7.89 the respondents rejected their representation. Hence this O.A.

3. The official respondents oppose the O.A. and have filed a counter affidavit. It is their plea that the cause of action arose in the year 1985 and that the applicants not having challenged the decision of the Railway Board at that time cannot challenge it in the year 1989 and that the case is hit by limitation. They also justify giving preference to Diploma Holders over non-Diploma Holders and that this does not violate Articles 14 and 16 of the Constitution of India. It is also their point that from 1.1.84 the cadre of Tracers is frozen and, therefore, the seniority list in that cadre also should be treated as extinct.

4. The private respondents also oppose the O.A. and have filed a reply affidavit. They also contend that the O.A. is barred by limitation. It is contended that when they were appointed w.e.f. 1.1.84 as Asst. Draftsmen, that promotion was not questioned by the applicants and that they cannot question the same now.

5. We have examined the case and heard the rival sides. When the case was taken up for hearing on 30.11.92, it was specifically averred by the learned counsel for the applicants that this case is squarely covered by the judgement dt. 30.10.91 in O.A.No.594/90. This was, however, disputed by Shri P.Krishna Reddy, learned counsel appearing for some private respondents.

Copy to:-

1. The Secretary (Establishment), Railway Board, Rail Bhavan, New Delhi.
2. The General Manager, S.C.Railway, Rail Nilayam, Sec-bad.
3. The Chief Personnel Officer, S.C.Railway, Rail Nilayam, Secunderabad.
4. The Chief Electrical Engineer, S.C.Railway, Rail Nilayam, Secunderabad-371.
5. One copy to Sri. G.V.Subba Rao, advocate, CAT, Hyd.
6. One copy to Sri. D.Gopal Rao, SC for Railways, CAT, Hyd.
7. One copy to Sri. P.Krishna Reddy, advocate, (for 11,12,13, 19, 21, 23, 34 & 35), CAT, Hyd.
8. One spare copy.

Rsm/-

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Therefore, the case was posted only for hearing on this point in the first instance. The case was heard on 1.12.92 when S/Shri G.V. Subba Rao, N.Rajeswara Rao and Smt. P.Sarada argued for the applicants, official respondents and private respondent respectively. No distinction from the essential facts of the case already adjudicated was made. All the points that were raised by the counsels for the respondents have all been covered in detail in the judgement dt. 30.10.92 in O.A. No.594/90. Smt. P.Sarada, learned counsel appearing for the private respondents, however, argued that unlike the applicants in O.A. No.594/90 who were initially appointed as Clerks but appointed as Tracers only later on, the applicants in this O.A. were appointed straightaway as Tracers. This makes no difference in so far as the case is concerned. In the case cited by the learned counsel for the applicants the Bench clearly held that the Railway Board letter dt. 25.6.85 not being in the nature of a statutory amendment to the recruitment rule the seniority in the cadre of Tracers should be fully reflected in the cadre of Asst. Draftsmen also. In this view of the situation we feel that the case before us is squarely covered by the decision in that O.A. and we give the same direction in this case too viz: that the relative seniority of the applicants vis-a-vis others in the cadre of Asst. Draftsmen should be the same as in the case of Tracers. We also direct the respondents to assign in the light of the above direction the proper places to the applicants in the seniority list of Asst. Draftsmen along with consequential benefits thereof. The application is allowed thus with no order as to costs.

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

W.S.Roy
(C.J.Roy)
Member (J).

Dated: 4th December, 1992.

STO/12/92
Deputy Registrar (JUL.)

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