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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD

D.A.No. 608/89.

DATE OF DECISION: - - - - -

27/6/90

Between:-

R.Krishnaiah  
& another. - - - - - Petitioner(s)

Shri V.Rama Rao, Advocate - - - - - Advocate for the  
for Shri P.V.S.S.S.Rama Rao, Advocate. petitioner(s)

Versus

Chief Personnel Officer,  
South Central Railway, Secunderabad - - - - - Respondent.  
& 3 others.

Shri N.R.Devaraj, - - - - - Advocate for the  
SC for Railways. Respondent(s)

CCRAM:

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl).

THE HON'BLE MR. R.Balasubramanian : Member(Admn).

1. Whether Reporters of local papers may be allowed to see the Judgment ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the Judgment ?
  4. Whether it needs to be circulated to other Benches of the Tribunals ?
  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)
- NO  
YES  
NO  
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L/S

HJNM  
M(J)

HRBS  
M(A)

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD B  
AT HYDERABAD.

O.A.No.608/89.

Date of Judgment: 27.6.9

R.Krishnaiah  
& another

.. Applicants

Versus

Chief Personnel Officer,  
South Central Railway,  
Secunderabad  
& 3 others

.. Respondents

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Counsel for the Applicants :

Shri P.V.S.S.S.Rama Rao,  
Advocate.

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

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl).

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

[ Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn) ].

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This is an application filed by Shri R.Krishnaiah  
and another under section 19 of the Administrative  
Tribunals Act against the Chief Personnel Officer,  
South Central Railway, Secunderabad and 3 others.

2. The applicants were at the relevant point of time  
working as Cabinman Grade I and Pointsman Grade I at  
Chittoor and Guntakal. The respondents issued a notice  
inviting applications for filling up the vacancies of  
Asst. Station Masters. The applicants appeared for the  
written test and also the viva-voce. In the final list

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of 14 names they did not figure. A complaint was made to the Chief Vigilance Officer, South Central Railway, Secunderabad pointing out certain irregularities. This led to the cancellation of the list. Aggrieved by the cancellation, 9 persons (other than the 2 before us in this case) approached this Tribunal vide O.A.No.521/86. After dealing with the case in detail, vide judgment dated 25.1.89 in that O.A., the Tribunal set aside the list of successful candidates declared in their letter dated 5.9.85. The Tribunal also permitted the Chief Operating Superintendent (R4 in the present case) either to confirm the selection, set aside on different grounds, in case he was of the opinion that the selection was properly notified and all eligible candidates had been given due opportunity OR to cancel the entire selection and hold a fresh selection if he felt otherwise.

3. The applicants are aggrieved that by their letter dated 7.6.89 purported to be in pursuance of the Tribunal decision in the case of O.A.No.521/86 the respondents had re-issued the very same list which they had cancelled earlier in the light of the advice of the Vigilance Section.

4. The respondents have opposed the prayer. According to them they have acted on the direction given in the case of O.A.No.521/86 and after careful consideration of the various aspects the competent authority viz: the Chief Operating Superintendent had decided to confirm the earlier selection.

It is their contention that the final list dated 7.6.89 is quite in order and the prayer of the applicants may be rejected.

5. We have examined the case and heard the learned counsels for the applicants and the respondents. The case having been gone into considerable detail in O.A.No.521/86 we shall pick up the rest of the case from the judgment in that case onwards. The judgment therein permitted the competent authority to confirm the earlier selection if he was of the opinion that the selection was properly notified and all eligible candidates had been given due opportunity. It was the Chief Operating Superintendent that caused the cancellation of the earlier selection. If the very same authority who cancelled the selection earlier and who, later in exercise of the liberty given to him by this Tribunal, decides to stick to the earlier selection there should be very strong and acceptable reasons. Let us now see what the counter affidavit says in this regard. The counter affidavit quotes the Chief Operating Superintendent as follows:-

"I have gone through the papers placed before me including the judgment of Central Administrative Tribunal. It has already been decided by my predecessor that vacancies should be considered as seven. I agree with this decision and this stands. Both the Matriculates and non-Matriculate are eligible for five out of seven vacancies and both categories appeared for the selection and been empanelled. No irregularity has been alleged or proved in the actual selection. I feel that it would be fair to all concerned to let the panel of fourteen persons originally published stand."

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6. The Chief Operating Superintendent has agreed with the earlier assessment of vacancies. We shall not go into this since this is a matter of facts. He goes on to say that five out of the seven vacancies (pre 30.9.84 vacancies) should be open to both Matric and non-Matric candidates. Agreed. But what follows thereafter is where he has erred. He says that both categories appeared for the test and therefore does not see any irregularity in the selection. The notice calling for applications indicated Matric as the educational qualification. It is seen from para 6 of the judgment in O.A.No.521/86 that the respondents had stated that despite the notice which wanted applications only from Matriculates, non-Matriculates also appeared. Vide para 6(g) of the counter in the present case the respondent comes up with <sup>an amusing</sup> ~~a missing~~ plea that the requirement 'Matric' does not mean a pass in 'Matric'. The Vigilance Department had rightly argued earlier that <sup>if</sup> ~~in~~ the notice <sup>had</sup> ~~which~~ permitted non-Matriculates also many more would have appeared in the test. The Tribunal judgment which permitted the competent authority to uphold the list also required that he could do so only if he was of the opinion that the previous selection was properly notified and all eligible candidates had been given due opportunity. We find that the competent authority has erred in that the notification was not proper and ALL eligible candidates did not get an opportunity to appear in the test.

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To:

1. The Chief Personnel officer, south central railway, Sec'bad.
2. The Senior Divisional personnel officer, south central railway, Guntakal, Anantapur district.
3. The Divisional Railway Manager, south central railway, Guntakal, Anantapur district.
4. The Chief operating superintendent, south central railway, Rail nilayam, Sec'bad.
5. One copy to Mr.P.V.S.S.S.Rama Rao, Advocate, 5-9-22/37, Adarshanagar, Hyderabad.
6. One copy to Mr.N.R.Devaraj, SC for Railways, CAT, Hyderabad.
7. One copy to Hon'ble Mr.R.Balasubramanian:Member:(Admn.)
8. One spare copy.

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7. We find that the total vacancies of seven could be split into two portions as five which should be open to both Matric and non-Matric candidates and two only for Matric candidates. The test conducted earlier in the wake of the notice dated 1.8.84 which stipulated Matric as the educational qualification can therefore hold good only in respect of the two vacancies for which Matric is the minimum educational qualification. All the Matric qualified candidates were given an opportunity to apply for this test and therefore the two vacancies for which Matric is the minimum educational qualification can be filled up from amongst the list dated 7.6.89 in the proper order. As regards the five vacancies which are open to both Matric and non-Matric candidates, since all the non-Matric candidates did not have an opportunity to apply for, a fresh selection should be held keeping it open to both Matric and non-Matric candidates. The age limit should be reckoned on 30.4.84 as indicated in the previous notice dated 1.8.84. When this list is finalised the respondents can fill up the five vacancies in the proper order of merit.

8. The application thus succeeds partially and is disposed of with the directions contained in the previous paragraphs. There will be no order as to costs.

( J.Narasimha Murthy )  
Member(Judl).

( R.Balasubramanian )  
Member(Admn).

Dated 27<sup>th</sup> June 90  
Deputy Registrar(T)