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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A. NO.703/89

Date of order: 23.8.93

Between

1. G.Pydithali
2. B. Chakradara Rao
3. P. Syama Sundara Rao
4. M.A. Salar

... Applicants

and

1. The Union of India rep.by its
General Manager,
South Eastern Railway
Garden Reach Calcutta-43
2. The Chief Personnel Officer
South Eastern Railway
Garden Reach
Calcutta-43
3. The Divisional Railway Manager
South Eastern Railway
Waltair-530 004
4. The Divisional Personnel Officer
South Eastern Railway, Waltair
5. The Assistant Personnel Officer
South Eastern Railway
Waltair
6. G.A.Patrudu
7. S.Nookaraju
8. R.Krishna Rao
9. Ch. George Devadass
10. R. Gowri Prasad
11. P. Ramana
12. M. Bhaskara Rao
13. SGK Rao
14. M. Krishna Rao
15. M. Giridhara Rao
16. G. Arjun

.. Respondents

Counsel for the Applicant

::

Mr. Vijayakumar for
Mr. Surender Rao

Council for the respondents

::

Mr NR Devraj Sr. CGSC

CORAM:

HON'BLE SHRI A.B. GORTHY, MEMBER (ADMN)

HON'BLE SHRI T. CHANDRASHEKHARA REDDY, MEMBER(JUDL.)

T. S. R.

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ORDER OF THE DIVISION BENCH DELIVERED BY HON'BLE
SHRI T. CHANDRASHEKHARA REDDY, MEMBER (JUDL.)

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to promote the applicants to the post of Loco shunter in preference to the unofficial respondents 6 to 16 and further to declare that the action of the official respondents in sending the unofficial respondents 6-16 for training for the promotion to the post of Loco shunter as illegal, arbitrary and violative of Article 14 of the Constitution and to pass such other orders as may deem fit and proper in the circumstances of the case.

2. The facts so far necessary to adjudicate this OA in brief, are as follows:

3. Applicants 1-4 herein are non-matriculates. The first applicant was originally appointed on 8.6.70 as Engine Cleaner. The second, third and fourth applicants were appointed on 11.6.70 and 18.6.70 respectively as Engine Cleaners. They were promoted as Firemen-C, known as Second Firemen on 30.11.79. They were further promoted on 30.11.82 as Firemen-B. They were also promoted to the cadre of Firemen-A in the month of August, 1984. The applicants herein were regularised as FM'A'w.e.f. 14.3.85. The un-official respondents 6 to 16 are matriculates.

Against the quota of matriculates, the unofficial respondents 6-16 herein were promoted as Firemen Grade A.O

28.7.84. The un-official respondents 6 to 16 were given seniority over the applicants herein even though the applicants herein were promoted earlier than the unofficial respondents

w.e.f. 17-8-84

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6 to 16 to the post of Fireman Grade 'A'. So, it is the grievance of the applicants herein, that the applicants should be treated as seniors to the unofficial respondents 6 to 16 in the post of Fireman Gr.'A' and that, in seniority list also, they (applicants herein) should be shown as seniors to respondents 6 to 16 in the post of Fireman Gr.'A'. Hence the present OA is filed for the relief as already indicated above.

4. Counter is filed by the official respondents opposing this OA.

5. We have heard Mr Vijay Kumar for Mr. Surender Rao counsel for the applicant and the standing counsel for the respondents.

6. It is the case of the applicants that the applicants herein, even though had not been qualified for promotion as matriculates, were promoted on adhoc basis with effect from 17.8.84, and so, are to be treated as Seniors to the unofficial respondents 6 to 16 in the post of Fireman Gr.'A'. For promotion to the post of Fireman Gr.'A' from Fireman Gr.'B' for non-matriculates, one should complete the requisite period of service of 2 years in the grade of Fireman 'B'. The applicants herein ^{admittedly} had completed the requisite period of service of 2 years as Fireman 'B' by 14.3.85, with effect from which date, they were regularised in the cadre of Fireman 'A'. So, it is quite evident from the counter of the official respondents that the applicants had entered into the grade of Fireman 'A' w.e.f. 14.3.85 that, is after completion of 2 years of service in the post of Fireman Gr.'B'. As the applicants had not completed the required period of service by 17.8.84, in the grade of Fireman 'B', they had no right for regularisa-

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tion for the post of Fireman Grade 'A' with effect from 17.8.84. So, it is not open for the applicants herein to claim seniority for the post of Fireman 'A' Gr. 'A' with effect from 17-8-84, on which date the un-official respondents were ^{already} regularised in the post of Fireman Gr. 'A'.

7. It is not in dispute that the un-official respondents 6 to 16 who are matriculates were promoted and appointed from Fireman Gr. 'B' after subjecting them to the required test w.e.f. 28.7.84. As unofficial respondents 6 to 16 were promoted on regular basis as they had required qualification to the promoted post of Fireman Gr. 'A', the unofficial respondents 6 to 16 are entitled to have seniority over the applicants herein.

8. When this OA came up for further hearing today, the counsel for the applicant Mr Vijayakumar who had taken adjournment on the last occasion fairly conceded ~~today~~ that in view of the respondents' stand taken in page two of their counter that the applicants cannot claim seniority over the unofficial respondents 6 to 16. So, this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

T. Chandra Sekhara
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

A.B. Gorthi
(A.B. GORTHY)
Member (Admn)

Dated: 23rd August, 1993

(Dictated in the open Court)

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Dy. Registrar (Judl.)

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