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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 707 of 1989

Date of Order: 03/04/1990

M.Achi Babu
M.Ghinnayya
D.Krishna Murthy
A.Tirupathi Rao
M.V.Maheswara Rao
B.Bangaru Naidu
G.Venkata Rao
G.Venkateswara Rao
L.Ramakrishna Rao
JMM Rao Patnaik

.....Applicants

versus

1. The Union of India, rep. by its
Secretary, Railway Board, New Delhi.
2. The General Manager, South Eastern
Railway, Garden Reach Road,
Calcutta-43.
3. The Divisional Railway Manager,
S.E.Railway, Waltair, A.P.

.....Respondents

For Applicants: Mr.N.Rama Mohan Rao, Advocate

For Respondents: Mr.N.R.Devaraj, SC for Railways.

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C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

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(Judgment delivered by Hon'ble Shri B.N.Jayasimha, VC)

1. The applicants are Group D employees eligible for recruitment/promotion as Assistant Guards. It is stated that by a circular dated 22-2-1989, the Divisional Personnel Officer, Waltair invited applications from

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eligible employees to reach his office before 10-3-1989 for the purpose of selection for the post of Asst. Guard. It is stated that on 20-4-1989, an alert notice was issued alerting 39 candidates and directing them to sit for written examination fixed on 6-5-1989 at 9-30 hrs. Thereafter, by letter dated 27-7-1989 a list of the staff who had qualified in the Written examination was issued and they were directed to be present for viva voce proposed to be held on 16-8-1989 at Waltair at the office of the Divisional Personnel Officer. The list included the applicants herein and one more candidate. The applicants meanwhile having come to know that there was a likelihood of the Viva Voce being cancelled, they made a representation on 15-8-1989 praying that the Viva voce test be held at an early date. On 17-8-1989, the impugned order was passed by the Divisional Personnel Officer stating that the written tests held on 6-5-89 and 7-7-1989 have been cancelled. A representation was made on 22-8-89 to the Chief Personnel Officer, South Eastern Railway, Calcutta against the impugned order and requested to rescind the order cancelling the results of the written tests. On 24-8-1989, once again a notice was issued alerting 45 candidates including the applicants herein and informed them that the Written test would be held on 16-9-1989. Thereafter, this Original Application was filed ^{seeking direction} to refrain the respondents 2 to 3 from conducting a fresh written test on 16-9-1989 and for a direction to finalise the selection to the post of Asst. Guards on the basis of results published for the written test held on 6-5-89 and 7-7-1989.

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2. On behalf of the respondents a counter has been filed admitting the facts stated above. It is, however, stated that the cancellation order was issued since there was a joint appeal by some of the senior staff who appeared for the selection of Asst.Guards but did not pass in the written examination conducted on 6-5-1989. It is further stated that the matter was also represented by the organised labour and it was also found that there was a scope for some senior staff to pass in the Written examination. Since the results of the written test were already announced and the staff had been called for the viva voce, the only course available was to scrap the selection and to process fresh selection.

3. We have heard Shri N.Rama Mohan Rao, learned counsel for the applicant and Shri N.R.Devaraj, Standing Counsel for Railways.

4. It is not the case of the respondents that there was any irregularity in the conduct of the written examination warranting cancellation of the examination held and conducting a re-examination. All that is stated is that some representations were received stating that the seniors have not passed the test and the matter was also representated by the organised labour. That cannot be a ground for cancellation of the validly conducted test subjecting the applicants who have passed the test earlier to face another test and qualify ^{for} the same again.

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It is always open to the respondents to conduct a test for those who have not passed afresh and then prepare a supplemental select list if so required.

But the selection of the applicants cannot be cancelled.

In the result the respondents are directed to proceed

with the viva voce test on the basis of the result

published by the Divisional Personnel Officer, Waltair

in his proceedings no.WPY/110/Asst.Gd., dated 27-7-89

and complete the selection and make appointments on

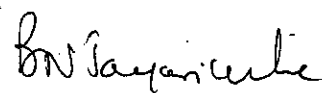
the basis of such selection. This shall be done


within a period of two months from the date of receipt

of this order. The application is accordingly allowed.

No order as to costs.

(Dictated in open court)


(B.N.JAYASIMHA)
VICE CHAIRMAN


(D.SURYA RAO)
MEMBER (J)

DT.3rd April, 1990.


DEPUTY REGISTRAR(A)

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To:...

1. The Secretary, (Union of India) Railway Board, New Delhi.
2. The General Manager, south Eastern Railway, Garden Reach Road, Calcutta-43.
3. The Divisional Railway Manager, S.E. Railway, Waltair, A.P.
4. One copy to Mr. N. Ram Mohan Rao, Advocate, Flat No. 714, Brindavan apartments, B-Block, Niloufir Hospital Road, Red Hills, Hyderabad-500 004.
5. One copy to Mr. N. R. Devaraj, SC for Railways., CAT, Hyderabad.
6. One spare copy.

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Draft by: Checked by: Approved by
D.R.(J)

Typed by: 15/11/4 Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

HON'BLE MR.B.N.JAYASIMHA: (V.C.)
AND
HON'BLE MR.D.SURYA RAO:MEMBER(JUDL)
AND
HON'BLE MR.D.K.CHAKRAVORTY:MEMBER:(A)
AND
HON'BLE MR.J.NARASIMHA MURTHY:MEMBER(J)

DATED: 3/4/90 ✓

ORDER/JUDGMENT

M.A./R.A./C.A./No. _____ in.

T.A.No. _____ (W.P.No. _____)

O.A.No. 707/89 ✓

Admitted and Interim directions
issued.

Allowed. ✓

Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

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