

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

RP.No. 74/93  
in  
OA.No.394/89.

Dt. of Decision : 24-2-95.

1. S.Rajendran
2. VS Bargouti
3. JN Gupta
4. R. Raja
5. M.Md.Ismail
6. A.Sivarama Krishnan
7. AK Gupta
8. JK Khare
9. C.Selvakumar
10. A.Satyanarayana
11. L.Moorthy
12. K.Sivarama Krishnan
13. P.Manoharan

.. Applicants/Respondents  
7 to 19 in  
OA.394/89.

Vs

1. N.Gopalakrishnan
2. Rajasekaran Nair
3. G.Sankaranarayana
4. R.R.Desai
5. Ch.Padma Rao
10. The Chief Personnel Officer,  
SC Rly, Rail Nilayam, Secunderabad.
11. The Chief Engineer(Construction)  
Now designated as Chief Administrative  
Officer(Construction) SC Rly, Sec'bad.
12. The Chief Engineer(Open Line)  
SC Rly, Rail Nilayam, Sec'bad.
13. The Divl. Rly.Manager,(BG)  
SC Rly, Sec'bad Division, Sec'bad.
14. The Divl. Rly.Manager(MG)  
SC Rly, Sec'bad Division, Sec'bad.
15. The Divl. Rly.Manager,  
Guntakal Division, SC Rly, Guntakal.

- 6.S.V.Ramama
- 7.Seelam George
- 8.N.Krishna Murthy
- 9.V.M.Churian

.. Respondents/  
Sl.No.1 to 9 are  
applicants in OA  
and Sl.No.10 to 15  
are the respondents  
in OA.394/89.

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

Counsel for the Respondents : Mr. D.Gopal Rao, SC for Rlys.  
(R-10 to R-15)  
Mr. P.Krishna Reddy (R-1 to R-9)

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

R.P.No.74/93 in OA 394/89.

Pre-delivery Judgment in the above RP typed as  
per the dictation of Hon'ble Sri R.Rangarajan,  
Member(A) for concurrence please.

H.M. (A)

HVC

22/2/95

*Rangarajan*  
(G.Rangarajan) 20/2/95  
S.P.A.

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R.P.NO.74/93 in O.A.No.394/89.

Date: 24/4/95

O R D E R

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

This R.P. has been filed by the <sup>private</sup> respondents 7 to 19 in the O.A.(applicants herein) against the decision of this Tribunal dt. 20.4.1993 in OA No.394/89 whereby it was ordered to recast the seniority list of Inspector of Works Grade-III of Secunderabad Division as on 31.1.1989 placing the applicants in that OA as seniors to Respondents No. 7 to 19 in that OA (applicants in this RP).

2. A requisition was placed on Railway Recruitment Board, Secunderabad for recruitment of 48 posts of Inspector of Works (IOW). Initially, only 31 candidates had joined against the requisition of 48 candidates. There was a drop out of 17 candidates. To meet the shortfall of 17 candidates, R-10 herein asked for supply of more candidates out of which only 14 candidates joined. Applicants herein are among those 14 who had joined in the second batch of candidates supplied by Railway Recruitment Board, Secunderabad.

3. The training period for the first 31 candidates was relaxed by R-10 to six months. The contention of the applicants herein is that the curtailment of training period granted to the 1st batch of 31 candidates equally applies to the applicants herein also, though their names figured in the second list/batch of Railway Recruitment Board.

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As R-10 herein had given sanction for curtailment of the training period for the whole batch of 48, it has to be presumed that curtailment is for all the candidates who come within the number of posts asked for by the South Central Railway. If it is treated that the sanction given for curtailment of training is not applicable to the second batch of candidates supplied by the R.R.B. to which group the applicants herein belong to, it will be contrary to law and facts apparent on record. The further submission of the learned counsel for the applicants herein is that this Hon'ble Tribunal had come to erroneous conclusion that special circumstances did not exist to curtail the training period for the applicants herein who were appointed in second batch consisting of 14 candidates. The learned counsel for the applicants herein prayed for calling of records to sustain their case.

4. This is the very contention which was considered in the OA. After perusal of records of R-1 to R-6 in the main OA this Tribunal had come to the conclusion on the basis of the material available that the curtailment of training period of the second batch of IOW recruits who are the applicants herein, was not done due to exigencies of service. The relevant portion of the judgment is reproduced hereunder:-

"Para 114 in Chapter I Section (b) of the Railway Establishment Manual empowers the General Manager or the Chief Administrative Officer to relax or modify the rules in that Chapter for reasons to be recorded in writing if there are special



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circumstances for such relaxation or modification. It is also made clear in para-114 that the said power can be exercised even by the CPO. Para-145 of the said manual prescribes the period of training for direct recruits in the category of I.O.W. Gr.III and some other categories as one year, and it is not treated as part of the service. The learned counsel for the respondents produced the relevant records which disclose that the then Chief Personnel Officer, South Central Railways curtailed the period of training for the direct recruits i.e. Respondents No.7 to 19, from one year to 6 months. The said curtailment was ordered by the Respondent 1 when a request was made by the direct recruits for reducing the period of training from one year to 6 months as it was so done earlier in the year 1979. While Sri Subba Rao, learned counsel for the Respondents 7 to 19 contended that when the period of training was reduced from 12 months to 6 months previously and when the vacancies existed and when it was so reduced for this year as in the immediately preceding year it was so reduced, the CPO ordered to that effect in exercise of powers under para 114 of the Railway Establishment Manual, Shri P.Krishna Reddy, appearing for the applicants submitted that in view of the facts stated it cannot be held that special circumstances existed for reducing the period of training. Of course, it is rightly submitted by Shri G.V.Subba Rao that malafides were not attributed to the then Chief Personnel Officer when he reduced the period of training. Be that as it may, we cannot accept the contention for the Respondents 7 to 19 that it is a case of relaxation of the rules by reducing the period of training in view of the special circumstances. Record produced for the Respondents 1 to 6 does not disclose that it was so done due to exigencies of service.

To

1. The Chief Personnel Officer, S.C.Rly,  
Railnilayam, Secunderabad.
2. The Chief Engineer(Construction)  
now designated as Chief Administrative Officer  
(Construction) SC Rly, Secunderabad.
3. The Chief Engineer(Open Line) S.C.Rly,  
Railnilayam, Secunderabad.
4. The Divisional Railway Manager(BG)  
S.C.Rly Secunderabad Division, Secunderabad.
5. The Divisional Railway Manager(MG)  
S.C.Rly, Secunderabad Division, Secunderabad..
6. The Divisional railway Manager,  
Guntakal Division, S.C.Rly, Guntakal.
7. One copy to Mr. G.V.Subba Rao, Advocate, CAT.Hyd.
8. One copy to Mr.D.Gopal Rao, SC for Rlys. CAT.Hyd.
9. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
10. One spare copy.

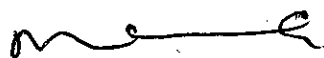
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When it was merely reduced for the immediately preceding year, and merely because it was not challenged, it cannot be stated that it was a special circumstance as contemplated under para-114 for relaxing or modifying the rule. The spirit behind para-114 is to give powers to some higher officers who are at the spot to modify or relax the rules if the circumstances so warrant. Care is also taken in directing such authority to record the reasons in writing to justify such modification or relaxation of the rules. It is only in cases of urgency, the concerned authority could have recourse to that para, and the rules formulated by the Railway Board should not be lightly interfered with. If it so viewed, we cannot but accept the contention for the applicant promotees that the circumstances that existed before the then CPO for reducing the period of training cannot be held as the special circumstances as envisaged under para-114 of the Railway Establishment Manual."

5. As the contention raised in this R.P. had already been gone through ~~very carefully~~ after perusing the records and it was held that reducing the period of training for the applicants herein cannot be held as a special circumstance as envisaged in para 114 of Railway Establishment Manual, ~~the~~ same point cannot be reactivated in this R.P.

6. In view of this, the R.P. is liable to be dismissed and accordingly we do so.



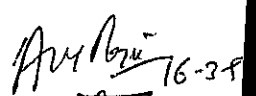
(R. Rangarajan)  
Member (Admn.)



(V. Neeladri Rao)  
Vice Chairman

Dated 24<sup>th</sup> Feb., 1995.

Grh.

  
Deputy Registrar C.S.