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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

RP 2/91 in OA 608/89

+

RP 6/91 in OA 608/89.

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RP 1/91 in OA 608/89.

Dt. of Order: 13-9-93.

Between :-

1. P.Ramachandraiah

2. R.Munijayaram

(Applicants in RP 2/91)

1. G.Sreenivasulu

2. G.Shanmugam

3. G.Rama Murthy Raju

4. T.R.Chalapathy

5. P.Venkataramana

6. P.Varada Rajulu

7. G.Subrahmanyam

8. K.Nagaraju

(Applicants in RP 6/91)

1. C.S.Khaja Mohinuddin

(Applicant in RP 1/91)

.....Applicants

And

1. Chief Operating Superintendent,  
SC Railway, Railnilayam, Sec'bad.

2. Sr.Divisional Personnel Officer,  
SC Rlys, Guntakal, Anantapur District.

3. R.Krishnaiah, Cabin Man Gr.I,  
SC Rlys, Chittoor Rlys Station.

4. V.T.Kulasekharan, Points Man,  
Guntakal Rly Station, SC Rlys,  
Guntakal, Anantapur District.

.....Respondents

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Counsel for the Applicants : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.R.Devraj, SC for Rlys  
Shri P.V.S.S.S.Rama Rao for  
RR 3 and 4.

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CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Division Bench passed by Hon'ble  
Shri A.B.Gorthi, Member (A) ).

Vide our order dt. 6-8-93 M.A.Nos. 482/92 and 483/92 filed in R.P.2/91 were allowed. We therefore allow MA 505/92 and 506/92 in RP 6/91 and MA 507/92 and MA 508/92 filed in RP 1/92. In all the three Review Petitions the prayer was for a review of judgment in OA 608/89. The brief back-ground leading to the re-hearing of RP 1/91, RP 2/91 and RP 6/91 is as follows :

2. Original Application No.521/86 was allowed on 25-1-1989 with a direction to the respondents to re-consider the validity of the selection held for the posts of Asst. Station Master. The Respondents re-considered the matter and on 7-6-1989 held that the selection conducted was in order and need not be set aside. Aggrieved by the said order Sri R.Krishnaiah and Sri V.T.Kulashekaran filed OA 608/89 without however impleading the applicants in OA 521/86. While allowing OA 608/89 this Tribunal observed as under :-

"7. We find that the total vacancies of seven could be divided into two portions as five which should be open to both Matric and Non-Matric

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candidates and two only for Matric candidates. The test conducted earlier in the wake of the notice dt.1-8-84 which stipulated Matric as the educational qualifications can therefore hold good only in respect of the two vacancies for which Matric is the minimum educational qualifications. 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 qualifications can be filled up from amongst the list dt.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 20-4-84 as indicated in the previous notice dt.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 it disposed of with the directions in the previous paragraphs. There will be no order as to costs."

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3. The applicants in OA 521/86 filed RPs 1/91, RP 2/91 and RP 6/91 requesting for a review of the judgment in OA 608/89. After hearing the parties ~~re-~~<sup>ed</sup>, the review petitions were allowed vide order dt. 25-7-91. Relevant portion of the order<sup>is</sup> re-produced below :-

"3. There was a hearing in this Review Petition. The learned counsel for the applicant Shri P. Krishna Reddy pointed out that while the decision in OA 608/89 was intended to protect the legitimate interests of non-matrics there never was even a murmur from their side. He pointed out that in this entire episode, the non-matrics had never agitated. Yes. We do not find any move from them. The notification for the test required matrics only to respond. Yet, some resourceful non-matrics took a chance and applied and a few of them made it to the select list too. If there were any aggrieved with the conducting of the test it should be those non-matrics who did not apply. They kept quiet. On the other hand, a matric (applicant in OA 608/89) complained in his letter dt. 15-10-85 to the Chief Vigilance Officer not on this aspect with which he was not concerned but on some other allegation. It was this point that

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Shri P.Krishna Reddy repeatedly and forcefully stressed. While on the other grounds raised in the Review Petition, a review is not called for, this point now focussed upon by Shri P.Krishna Reddy cannot be overlooked. The aggrieved persons, if any, had been keeping quiet, perhaps in the smug feeling that they had already got more than their share. Besides, holding a test as directed in the judgment in OA 608/89 at this stage to correct a mistake committed long ago will give rise to a new crop of problems. This, in our reconsideration of the case, is not required.

4. On a careful review in the light of the above, we cancel the order contained in the judgment dt.27-6-90 in OA 608/89. The Respondents are directed to cancel all the orders issued as a consequence to the orders contained in the judgment in OA 608/89.

4. It was contended that Respondents 3 and 4 in RP 2/91 had not been ~~heard~~ when the orders in the said R.P. ~~were~~ passed.

5. Original Application No.521/86 was allowed on the ground that perhaps not all the non-matriculates

had adequate notice of appearing for the selection.

Accordingly a direction was given to the Respondents to consider the said aspect and take a positive decision

either confirming the selection already held or cancell-

ing the same. The Respondents confirmed the selection

already conducted. In OA 608/89, where one applicant

was a Matriculate and the other ~~was~~ <sup>they</sup> a Graduate, challenge-

ged the decision of competent authority confirming the

selection already held. Original Application No. 608/89

was partly allowed mainly on the ground that atleast

for five posts which were to be filled up by matriculates

for which non matriculates were also eligible, adequate

not notice was given to all the non-matriculates. From the

averments made in OA 608/89 it is clear that applicant

No.1 is a matriculate and applicant No.2 is a graduate.

We therefore in full agreement with the observations

made in our order dt. 25-7-91 in RP 1/91 although the

same stands set aside vide our order dt. 6-8-93. It is

seen that none of the non-matriculates felt aggrieved

or approached the Tribunal against the decision following

our directions in OA 521/86. Applicant 1 and 2 in

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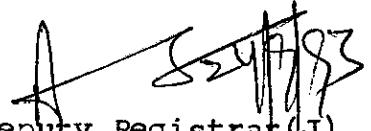
.. 7 ..

OA 608/89 could not have validly challenged the selection that was held as they could not be said to be the aggrieved persons. The aggrieved persons if any are those non-matriculates who did not have notice of the selection to be held. There is no dispute that there was adequate notice to all the matriculates to appear for the selection. In view of this we allow RP 2/91, RP 1/91 and RP 6/91 and cancel the order contained in judgment dt. 27-6-90 in OA 608/89. The Respondents in the said O.A. are directed to cancel all the orders issued in ~~other~~ consequence to the order contained in the judgment in OA 608/89.

T. C. R.  
(T.CHANDRASEKHAR REDDY)  
Member (J)

A. B. G.  
(A.B.GORITHI)  
Member (A)

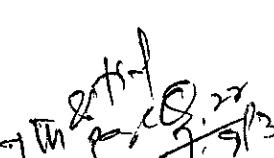
Dated: 13th September, 1993.  
Dictated in Open Court.

  
Deputy Registrar (J)

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To

1. The Chief Operating Superintendent, S.C.Rly, Railnilayam, Secunderabad.
2. The Sr.Divisional Personnel Officer, S.C.Rlys, Guntakal Anantapur Dist.
3. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One copy to Mr.P.v.S.S.S.Rama Rao, Advocate, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

  
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