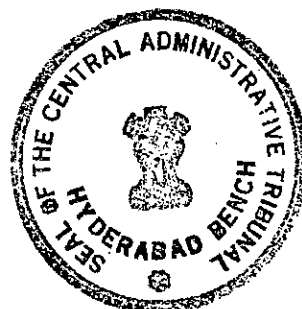


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.172 of 1990

DATE OF JUDGMENT: 24th Aug., 1993



BETWEEN:

Mr. PVS Radhakrishna Murthy ..

Applicant

AND

1. The Chief Personnel Officer,
South Central Railway,
Secunderabad.
2. Union of India represented by its
Secretary and Chairman,
Ministry of Railways,
Railway Board,
NEW DELHI. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr. V.Rama Rao, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.R.Devaraj, Sr.SC for Rlys.

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI P.T.THIRUVENGADAM, Member (Administrative)

The applicant is an OC candidate working in the
Electrical Department of South Central Railway. A selection
for promotion to Group 'B' against 75% quota was held during
the year 1987/1988. A written test was held on 14.6.1987
and 23.8.1987 and viva-voce was held on 27.6.1988. A panel
was drawn to cater for 7 vacancies out of which one vacancy

contd....

of dereservation by being placed in the 7th position in the panel issued on 11.7.1988. The applicant is entitled to all consequential benefits.

6. The above order was dictated in open court on 3.7.1993. But before the orders could be transcribed and signed, the learned counsel for respondents pleaded for re-consideration and advanced number of grounds as under:-

(i) The Zonal Railway decided to conduct an exclusive selection for the SC/STs for filling up two vacancies which could not be filled by SC candidates in the panels finalised on 11.7.1988 and 18.9.1989. This decision was taken in the year 1990 since the Railway Board had been instructing the Zonal Railways to wipe out the short-fall of SC/ST vacancies.

(ii) Even though the selections had been held in 1988 and 1989 including the reserved points against which SC/STs were to be empanelled, the Zonal Railway found that SC/ST candidates making the grade were not available. The Zonal Railway decided not to fill up these vacancies by OC candidates and hence went in for a separate selection duly withdrawing the earlier dereservation proposal.

The learned counsel for the respondents produced a letter bearing D.O.No.89E(SCT)I/27/1 dt. 9.6.1989 in support of his contention that the Railway Board had instructed to take suitable action for wiping out the short-fall of SC/ST vacancies. A perusal of this letter shows that instructions relate only to backlog vacancies in direct recruitment categories and for launching special drive to wipe out such back-log.

...5/-

28/9/93

3. The applicant had represented to the Railway for including his name in the panel published on 11.7.1988 ^{and this} was rejected by the Railway. Aggrieved by this the present O.A. is filed.

4. It is not in dispute that under the 75% quota selection there is no provision for carry forward of SC/ST vacancies. The case of the applicant for inclusion in the 7th position in the panel finalised in 1988 was not considered since formal clearance for dereservation had not been obtained from the Railway Ministry.

5. In the selection finalised in 1988, the reserved community candidates were available but they could not make the grade. However, there was a O.C. candidate who had come up to the standard of selection and who should have been empanelled after the formal process of dereservation. The selection process in 1987/1988 should be deemed to be complete since the required number of candidates were available for empanelment against the number of vacancies for which the selection was initiated. No rules could be quoted ^{authorising the initiation of} ~~to initiate~~ further selection, in an incident of this type. Thus, with regard to the selection finalised in July, 1988 the process of dereservation should have been taken to its logical end and the withdrawal of the proposal of the Zonal Railway will not deny the benefit that the applicant would have got. In these circumstances, we hold that the dereservation proposal initially sent should be deemed to have been approved and the applicant should be given the benefit

...4/-

300/8
7

7. As regards holding exclusive selections only for SC/ST candidates, when the selection process had already been completed and where adequate OC candidates were available, and available SC candidates were not upto the mark, the respondents produced records which admit that there are no specific instructions from the Board to conduct exclusive selection for SC/ST category to fill deficiencies. From the records, it is seen that this was purely a decision at the local level of the Railway. No instructions from the Board could be produced to support such an action. In view of the above we do not see any reason to modify the order already dictated on 3.7.1993.

8. In view of the above, the O.A. is disposed of with a direction to the respondents that the applicant should be given the benefit of dereservation by being placed in 7th position in the panel issued on 11.7.1988. The applicant will be entitled to all consequential benefits. No costs.

Sd/-
(HPTT)
H(A)

CERTIFIED TO BE TRUE COPY
Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

Sd/-
(HUNAT)
HVC

- To
1. The Chief Personnel Officer, S C.Rly, Secunderabad.
 2. The Chairman, Union of India,
grh. Ministry of Railways, Railway Board, New Delhi.
 3. One copy to Mr.v.Rama Rao, Advocate, CAT.Hyd.
 4. One copy to Mr.N.R.Devraj, Sd.for Rlys. CAT.Hyd.
 5. One spare copy.
 6. One copy to Library, CAT.Hyd.

pvm

Sd/-
HVC