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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No.503/1990

DATE OF DECISION: 22-2-1991

Between

1. K.Sridhara Murthy
2. Syed Ikramuddin

... APPLICANTS

A N D

1. The Railway Board, rep. by its Secretary (Est.), Rail Bhavan, New Delhi.
2. The Chairman, Railway Recruitment Board, IRISET Complex, Secunderabad.
3. The General Manager, South Central Railway, Secunderabad.
4. The Union of India, rep. by the Secretary to Govt., Min. of Railways, New Delhi.

... RESPONDENTS

Appearance:

For the applicants

: Sri V.Venkateswara Rao, Advocate

For the Respondents

: Sri N.R.Devaraj, SC for Rlys.

CORAM:

The Hon'ble Shri B.N.Jayasimha, Vice-Chairman (A)

The Hon'ble Shri D.Surya Rao, Member (Judicial)

(JUDGMENT OF THE BENCH DELIVERED BY THE HON'BLE SRI D.SURYA RAO MEMBER (JUDICIAL)).

The applicants who are two in number, have filed this Application against rejection of their applications for appointment to the post of Apprentice Diesel Assistant/ Electrical Assistant (Category-5) in the scale of Rs.950-1500 in the South Central Railway.

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2. The applicants contend that both of them had passed the Intermediate Examination and have obtained the I.T.I. certificate in the Machinist trade and Electrician trade respectively. They had applied for the post of Apprentice Diesel Assistant/Electrical Assistant in the form prescribed in response to the Employment Notice No.1/1990 published by the Railway Recruitment Board, Secunderabad on 20-1-1990. This notice invited applications for the post of Apprentice Diesel Assistant/Electrical Assistant in the scale of Rs.950-1500. The qualification prescribed was a diploma in Electrical/Mechanical/Electronic Engineering. The applicants claim that as per the instructions of the Ministry of Railways, Matriculation/10th class pass under 10 plus 2 system, with I.T.I. qualification in any trade is a sufficient qualification for the said post. It is further contended that the Railway Recruitment Boards at Chandigarh, Madras, Trivendrum, Ranchi, Bhopal and Allahabad had, in recent Employment Notices prescribed only Matriculation/10th class in 10+2 system, plus ITI qualification for the same post with the same scale of pay as now advertised by the S.C.Railway in its Notice No.1/1990. It is further contended that the Railway Recruitment Boards at Bhopal and Allahabad had previously prescribed diploma qualification but subsequently issued corrigendum to conform to the qualifications prescribed by the Ministry of Railways. The applicants, therefore, represented that they should be considered in view of their being duly qualified. Their applications were rejected by letter dated 17-8-1990 issued on behalf of the Chairman of the Railway Recruitment Board, Secunderabad. The

reason given is that they did not possess the prescribed qualification namely Diploma. It is stated that the examination was held on 3-6-1990 and the results are not yet published. It is contended that the ~~action~~ action of the Respondents in prescribing a qualification contrary to that laid down by the Ministry of Railways is arbitrary and violative of applicants' rights under Articles 14 and 21 of the Constitution of India. Rejection of their applications is, therefore, vitiated and not valid in law. They therefore seek a direction to declare the action of the Respondents in prescribing the minimum qualification of diploma in Mechanical/Electrical/ Electronic Engineering for the post of Apprentice Diesel Assistant/Electrical Assistant pursuant to the Employment Notice No.1/1990 dated 20-1-1990 and the rejection letter dated 17-5-1990 issued by the Railway Recruitment Board, Secunderabad as illegal, arbitrary, discriminatory and unconstitutional. They also seek a direction that they be declared as entitled for consideration against the posts advertised pursuant to Employment Notice No.1/1990 dated 20-1-1990.

3. On behalf of the Respondents-Railways, a counter has been filed stating that the Railway Board, by letter dated 19-1-1988 communicated a decision to the General Manager, Northern Railway with copies to all Railways, to place indents on Railway Recruitment Boards for recruitment to the posts of Apprentice Diesel Assistant/~~and~~ Assistant Electrical Drivers in the grade of Rs.950-1500 prescribing Diploma in Mechanical/Electrical/ Electronics Engineering as minimum qualification. This

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qualification was prescribed as a one time measure after receipt of letter dated 9-9-1987 from the General Manager, Northern Railway suggesting the said qualification to the said posts. It is also stated that after receipt of the letter dated 19-1-1988 which as a one time measure prescribed the qualification of Diploma in Mechanical/Electrical/ Electronic Engineering, instead of the previous qualification of pass in Higher Secondary (i.e. 10+2) plus ITI qualification, the Deputy Director, Establishment (M), Ministry of Railway (Railway Board), New Delhi had suggested that the minimum qualification should be Diploma in Mechanical/Electrical/Telecommunication/Electronic Engineering for recruitment to Diesel Assistant/ Assistant Driver (Electrical). It is contended in the counter that the one time dispensation prescribed in the Railway Board's letter dated 19-1-1988 was not utilised by the South Central Railway and, therefore, it was open to the said Railway to make recruitment for the posts of Apprentice Diesel Assistant/Electrical Assistant prescribing the said qualification namely diploma in Mechanical/Electrical/Electronic Engineering as minimum qualification. It is admitted that subsequently by letter dated 9-1-90, enclosed as Annexure-V to the counter affidavit, it has been clarified by the Ministry of Railways (Railway Board) that the minimum qualification for direct recruitment of Diesel Assistants/Electrical Assistants should be Matriculation pass or its equivalent examination or 10th class pass under 10+2 system plus ITI qualification in certain prescribed trades. The counter, however, states that in view of the fact that the South Central Railway did not avail the one time dispensation as prescribed under the Railway Board's letter dated 19-1-1988, it was decided by the competent authority not to modify the

notification No.1/1990 which has been published on 20-1-1990. It, therefore, states that the applicants are not justified to apply for the posts of Diesel Assistants/Electrical Assistants as they did not possess the minimum qualification. It is contended that corrigendum issued by the Railway Recruitment Boards, Allahabad and Bhopal are not relevant under the circumstances as those Railways have already availed the recruitment of diploma holders earlier. It is contended that rejection of applicants' candidatures vide letter dated 17-5-90 does not suffer from any infirmity in law or rule and in these circumstances, it is stated that the Application may be dismissed.

4. We have heard the learned counsel for the Applicants Sri V.Venkateswara Rao, Advocate and the learned Standing Counsel for the Railways Sri N.R.Devaraj, on behalf of the Respondents.

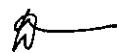
5. The short question for consideration is whether the qualification prescribed by the Respondents for the posts of Apprentice Diesel Assistant/Electrical Assistant as published in Employment Notice No.1/1990 dated 20-1-1990 by the Railway Recruitment Board, Secunderabad is contrary to the qualification prescribed as per instructions of the Ministry of Railways and whether the applicants are eligible to apply for the said posts. Admittedly, before the Notification dated 20-1-1990 had been published, the Railway Board had clarified by its letter dated 9-1-1990 that the Board had decided that the minimum qualification for direct recruitment of Diesel Assistants/Electrical Assistants should be (a) Matriculation pass or its equivalent or 10th class pass under 10+2 system, plus (b) I.T.I.

qualification in certain prescribed trades. The only ground on which the Respondents had prescribed the qualification of Diploma in Electrical/Mechanical/Electronic Engineering in their Employment Notice dated 20-1-1990 is that earlier on 19-1-1988 the Railway Board had as a one time measure informed the General Manager, Northern Railway and other General Managers that the minimum qualification may be diploma in Mechanical/Electrical/Electronic Engineering. This decision was pending a final decision on the general question of minimum qualification to be prescribed for recruitment to these posts. As already stated above, subsequently by instructions dated 9-1-1990, the qualifications were duly prescribed. Consequently, it was not open to the Railway Recruitment Board, Secunderabad to prescribe the qualification of diploma in Mechanical/Electrical/Electronic as the minimum qualification in its Notice dated 20-1-1990, as prescribing such a qualification would be contrary to the Railway Board's instructions. It was incumbent upon the Railway Recruitment Board Secunderabad to fix the minimum qualification as prescribed by the Railway Board. Despite the applicants bringing to the notice of the said Recruitment Board that they were qualified in terms of the Railway Board's instructions, their request or applications were rejected. It is clear that such a rejection is wholly illegal and arbitrary. The applicants ~~were not applying to~~ ^{were to} therefore, eligible to apply for the said posts, advertised, in terms of the instructions contained in Railway Board's letter dated 9-1-1990.



6. Shri Devaraj, learned Standing Counsel for the Respondents contended that the examinations were over and that the applicants should have made the present application to this Tribunal before holding of the examination. It is contended that the Application has been filed on 25-6-1990 whereas the examinations were already held on 3-6-1990. We see no substance in this contention. Firstly, the Application is within the time limit prescribed under Section 21 of the Administrative Tribunals Act, 1985 and the applicants cannot be faulted with any inordinate delay in having filed the Application on 25-6-90. They have come to this Tribunal just one month after the rejection of their applications. In any event, the applicants had applied sufficiently early for the posts that is, within the time limit prescribed viz. 20-2-90. They were informed that their applications are rejected, only on 17-5-90 by the Respondents that is, three months after the submission of the applications. Hence no fault can be found with them if they took one month's time to engage an advocate and approach this Tribunal. We, therefore, reject the contention put forth by Sri Devaraj.

7. For the reasons given by us in the preceding paragraph, the Application has to be allowed. We hold that the applicants were eligible to apply for the posts of Apprentice Diesel Assistant/Electrical Assistant Category-V carrying the scale of pay of Rs.950-1500 as advertised in Employment Notice No.1/1990 dt. 20-1-1990.





Because of interim directions, of this Tribunal issue of appointment orders as a result of the examination held on 3-6-1990 has been stayed. Since the examination is over we do not propose to set aside the entire examination. As the applicants have succeeded, the Respondents are directed to hold a special selection test for the applicants for the posts advertised after notice to the applicants. If the applicants pass the said test and are found fit, they should also be included in the list of selected candidates. The Application is disposed of with the above direction. No costs.

B.N.Jayasimha

(B.N.Jayasimha)
Vice-Chairman

D.Surya Rao

(D.Surya Rao)
Member (J).

22nd Feb 1991

mhb/

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Deputy Registrar (Judl)

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1. The Secretary(Est.,) Railway Board,
Rail Bhavan, New Delhi.
2. The Chairman, Railway Recruitment Board,
IRISET Complex, Secunderabad.
3. The General Manager, S.C.Railway, Secunderabad.
4. The Secretary to Government, Union of India,
Ministry of Railways, New Delhi.
5. One copy to Mr.v.venkateswaraRao, Advocate
1-1-287/27, Chikkadapalli, Hyderabad.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd-Bench.
7. One spare copy.

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Per

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

Dated: 2-2-1991.

~~ORDER~~ JUDGMENT:

M.A./R.A. / C.A. NO.

in

T.A. No.

W.P. No.

O.A. No.

503/90

Admitted and Interim directions issued.

Allowed.

Disposed of with direction.

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

