

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD :

DA No.973/90.

Date of Judgment:29-11-90.

V.Nagabhusanam✓

...Applicant

Vs.

1. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta.
2. E.K.George, Inertial Inspector,
C.M.E.Office, S.E.Railway,
Garden Reach, Calcutta-43.
3. V.R.Madiya,
Officiating A.M.E.,
S.E.Railway, Kharagpur.

....Respondents

Counsel for the Applicant : Shri P.B.Vijayakumar

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

CORAM:

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

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

(Judgment of the Division Bench delivered by
Hon'ble Shri B.N.Jayasimha, VC).

The applicant who is working as Senior Foreman
(Electrial) in South Eastern Railway has filed this appli-
cation questioning the proceedings No.DCPO(G)/CON/SBP/8/90
dated 23-10-1990 issued by the Chief Personnel Officer,
South Eastern Railway, i.e. the 1st respondent herein.

2. The applicant states that the posts of Asst.Mechanical
Engineer (Loco Gr.'B') in the Mechanical Department to the
extent of 75% are to be filled-up by promotion on the

PL 76
contd.../..

basis of ^a written test and viva-voce. Twenty four persons were called for written test. The applicant also appeared for written test on 3-8-1990. Four persons including the applicant passed the written test. Consequently all the four persons including the applicant asked to attend the interview on 9-10-1990. After the interview, a memo dated 23-10-1990 was issued including the names of respondents No.2 and 3 in the provisional panel. Aggrieved by his non-inclusion in the provisional panel, the applicant has filed this application, urging ^{that} the action in excluding his name ^{is} arbitrary and that the D.P.C. has proceeded to prepare the panel taking extraneous matters into consideration.

2. We have heard Shri P.B.Vijayakumar, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the Respondents who takes notice at the admission stage. Shri Devaraj contends that under rule 18(iv)(a) of Railway Servants (Discipline & Appeal) Rules, an employee if aggrieved by any order which denies or varies to his disadvantage his pay allowances, provident fund benefits, service gratuity or other conditions of service as regulated by rules can prefer an appeal under the statutory rules. The applicant has not exhausted the alternate remedy available to him and the application is therefore premature. That an appeal would lie even in matters of supersession in promotion has been clarified in ^{regard to similar} identical rules i.e. Sub-clause-iv

(17)

of Rule 23 of the C.C.S.(CCA) Rules. In the circumstances, the point raised by Shri Devraj has to be upheld and under section 20 of the Administrative Tribunals Act, 1985, it is incumbent upon the applicant to exhaust all other remedies available under the service rules before approaching this Tribunal. Since the applicant has a right of appeal and since he has **not** exhausted the remedy, the application ~~has~~ ^{is} to be dismissed as premature. It is open to the applicant to prefer an appeal in accordance with the rules. No order as to costs.

B.N. Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman

D. Surya Rao
(D.SURYA RAO)
Member (J)

Dated: 29th November, 1990.
Dictated in Open Court.

avl/

S. Srinivasan
DEPUTY REGISTRAR
(Judl).

To.

1. The Chief Personnel Officer, South Eastern Railways, Garden Reach, CALCUTTA.
2. One copy to Mr. P.B. Vijaya Kumar, Advocate, H.No.1-8-7/1, Chikkadpally, Hyderabad.
3. One copy to Mr. N.R. Devraj, SC for Railways, CAT, Hyderabad.
4. Mr. E.K. George, Inerial Inspector, CME Office, S.E. Railways, Garden Reach, CALCUTTA.
5. Mr. V.R. Madiya, Officiating A.M.E, S.E. Railways, KHARAGPUR.
6. One spare copy.

AA.

P.S. 6

Xerox
2/24/90

CHECKED BY
TYPED BY

APPROVED BY
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT 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)~~

DATE: ~~24-9-~~ 29.11.90

ORDER / JUDGEMENT:

M.A. / R.A. / C.A. / No.

in

~~T.A.~~ No.

~~W.P.~~ No.

O.A. No.

973/90

~~Admitted and Interim directions~~
~~issued.~~

~~Allowed.~~

~~Dismissed for default.~~

~~Dismissed as withdrawn.~~

~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. Ordered/Rejected.~~

~~No order as to costs.~~

