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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. No. 230/91.

Dt. of Decision : 15.07.1994.

1. Mr. Joseph George
2. M. Surender
3. K. Upender .. Applicants

VS

1. Union of India, rep. by
the General Manager,
SC Rly, Rail Nilayam,
Secunderabad.
2. Divisional Railway Manager, SC Rly,
Hyderabad (Metre Gauge), Opposite
Rail Nilayam, Secunderabad.
3. Sri Ram Mohan
4. Sri B. Lakshminarayana
5. Sri Mohd. Jahangir
6. Sri M.A. Rahim
7. Sri M. Shanker Rao .. Respondents.

Counsel for the Applicants. : Mr. G. Ramachandra Rao

Counsel for the Respondents : Mr. V. Bhimanna, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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



ORDER

(As per Hon'ble Shri A.B.Gorthi, Member(Admn))

The claim of the applicants is, for setting aside the selection ~~made~~ to the posts of Apprentice Mechanics(Electrical) in the Grade of Rs.1400-2000, made in pursuance of Notification dated 7/10-11-1988 and the consequent panel dated 02.01.1991, with all consequential benefits.

2. The application was filed by six applicants. But, during the pendency of the OA, it was restricted only to Applicants 1, 2 & 6.

3. The respondents issued Notification dated 7/10-11-1988 for selection of Apprentice Mechanics(Electrical) from serving qualified staff, working in technical categories in the Electrical Department, of Hyderabad (MG) Division, against 25% Limited Departmental Competitive Examination (LDCE) quota. In the notification it was stated, that there were two vacancies (1SC and 1-OC) which ^{will} ~~was~~ required to be filled up against 25% LDCE quota. Staff of Electrical Department of Hyderabad (MG) Division only were eligible to volunteer for the selection, subject to the condition, that the staff should have passed Matriculation/SSC or equivalent examination, and should have had three years satisfactory service in the category of Skilled Artisans. As the notification pertained only to two vacancies (1SC and 1-OC), applicants 1 and 2 felt that their chances of success were not bright, and hence, decided not to appear in the examination for the said selection. Applicant No.6, however, volunteered and appeared in the written

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examination and also qualified there at, as can be seen from Memo dated 8.11.89 issued by the DRM/MG, Hyderabad.

4. Applicant No.6, who was successful in the written test, was however, not called for the viva-voce test. The reason ~~prescribed~~ by the respondents was, that the name of the applicant No.6, (Sri K.Upender) was deleted because he was not eligible to be considered for the said selection. The respondents have subsequently, revised the number of vacancies to 7 (5-OC 16C and 1ST). After the revision of the number of vacancies, the respondents did not issue any fresh notification, but, decided to fill up the said vacancies from amongst the candidates empanelled as a result of the selection already held in consequence to the initial notification dated 7/10-11-1988.

5. The above facts are not in dispute.

6. Mr G.Ramachandra Rao, Learned Counsel for the applicants has assailed the selection, essentially on the ground, that it was conducted in violation of the provisions contained in Establishment Serial Circular No.163/86, circular letter No.P(R)605/IV dated 14.11.86. Para 1.6 of the said circular categorically states that, once the selection proceedings have started, ~~be~~ the number of vacancies assessed, shall not be changed under any circumstances. Had the respondents initially notified all the available vacancies, there was every possibility of Applicant No.1 and 2 also volunteering for the selection. It was entirely on account of the limited number of vacancies, (10C and 1ST) which was initially announced, applicants No.1 & 2 did not choose to appear for the selection. Besides the fact that the applicants thus suffered loss of their chance~~s~~ of promotion, the respondents had no justification in violating their own guidelines as given in the aforesigned ~~circular~~ Establishment Serial Circular, as thus contended ~~by~~ the applicants' counsel.

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7. Further contention raised by Mr G.Ramachandra Rao is, that the ~~reason why~~ the respondents did not resort to the correct procedure of re-notifying the vacancies and ~~merely~~ conducting fresh selection ~~as~~ because of the pressure brought-in by the Employees' Union on the officials concerned.

8. As regards applicant No.6, it was firstly contended that he, having joined the railway service in 1984, was eligible to appear for the said selection which was held in 1988. Even if for any reason the respondents found him not eligible for selection on the ground that he did not complete three years of service from the date of his selection, the manner in which the respondents informed him about the fact as late as, in 1990, deprived him of any chance of promotion because, had the respondents conducted the selection in 1990, the applicant No.6 would have, in any case, been eligible for the selection.

9. The respondents in their ~~as~~ reply affidavit have stated, that so far as applicant No.6 is concerned, he did not have the requisite service at the time of selection. In support of such contention, Mr NR Devraj, Learned Standing Counsel for the respondents, has drawn our attention to Para 2 of the Notification dated 7/10-11-1988 which stipulates that the staff should have three years satisfactory service "in the category of Skilled Artisan." The applicant No.6 was initially appointed as Apprentice Train ~~Lighting~~ Fitter Grade III on 4.3.1984, and on successful completion of training, he was regularly posted as Train Lighting Fitter Gr.III (skilled) on 26.10.1987. This would be evident from the DRM Memo dated 28.12.1990 addressed to the applicant No.6. It is thus, apparent that applicant No.6 did not meet the required service

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eligibility. This would be so, because, the period of Apprenticeship undergone by the applicant No.6 from 4.3.1984 to 26.10.87, would not count towards the service in the Grade of skilled artisan, as specified in the notification dated 7/10-11-1988.

10. As the applicant was not eligible to appear for the selection conducted in 1988, the action of the respondents in deleting the name of the applicant from the list of candidates called for viva-vote, cannot be faulted, notwithstanding the fact, that the applicant was initially allowed to appear for the written test wherein, he had qualified.

11. As regards the case of Applicants No.1 & 2, Mr NR Devraj contended that the afore-mentioned Establishment Serial Circular contained important points to be noted while conducting the Departmental selections within Group 'C', from Gp. 'D' to Gp 'C' and ^{for} direct recruitment to Group 'C'. Para 1.6 on which reliance was placed by the applicant's counsel is general in nature and could be made applicable generally in respect of such selections where depending the number of vacancies available, zone of eligibility of candidates had to be determined. As regards the conduct of Limited Departmental Competitive Examination, a reference ~~is~~ should be made to Para 14 of the said Establishment Serial Circular.

Para 14.1 states thus:

"Generally, most of the principles ~~enunciated~~ for conducting departmental selections ~~is~~ shall equally apply to selections for direct recruitment also."

Para 14.3 gives further detailed instructions regarding selection of artisans against 25% LDCE quota from the serving employees.

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12. There can be no doubt that as per para 1.6 of the Establishment Serial Circular, number of vacancies once notified, should not be altered and if such alteration becomes necessary before the start of the selection proceedings ~~1.6.1~~ i.e. before conducting written test, a detailed note should be made and the approval of an authority, higher than the one which approved the earlier assessment of vacancies, should be taken. In the instant case, it is apparent, that the change in the number of vacancies was worked out by the Department, after the written test was conducted. Further, we also find that the CPO, SCRly to whom the matter was referred, stated in his letter dated 29.10.1990 that there was no need for the Division to resort to cancellation of the earlier notification, or to initiate fresh selection.

13. We have carefully examined the contents of the Establishment Serial Circular dated 14.11.1986 which contains detailed guidelines with regard to the various types of selections within Group 'C', from ~~as~~ Gp. 'D' to ~~as~~ Gp. 'C' and for direct recruitment to Gp. 'C' posts. These are in the nature of guidelines and cannot be said to be mandatory or having the force of Statute. In any case, the importance of correctly assessing the number of vacancies would be more applicable where the zone of consideration for the selection has to be limited. In the case of selection against LDCE quota, it is open to all ~~the~~ employees, who are eligible to appear for such a selection, to volunteer for the said selection. Thus, it cannot be said that the change in the number of vacancies effected by the respondents has in any way, deprived the applicants No.1 & 2 of their chances for appearing for ~~the~~ such selection.

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Copy to:-

1. General Manager, South Central Railway, Union of India, Rail Nilayam, Secunderabad.
2. Divisional Railway Manager, S.C.Railway, Hyderabad(meter guage), Opposite Rail Nilayam, Secunderabad.
3. One copy to Sri. G.Ramachandra Rao, advocate CAT, Hyd.
4. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-

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14. Admittedly, the Employees' Union took up the matter with the authorities concerned when they initially announced the vacancies as only 2. If the respondents considered the view point projected by the Employees' Union and determined the number of vacancies as 7, it cannot be said that the respondents ~~have~~ acted malafide. Moreover, as already observed, the Division had referred the matter to the competent authority who is CPO, SCRly and obtained a clear direction from him to the effect that no fresh notification need be issued and the selection process, already initiated, could continue for filling up the revised number of vacancies also.

15. It is well settled that selection process can be interfered with, where it is brought out, that, there has been any violation of statutory/mandatory provision or that, it has been conducted malafide. For the reasons afore stated, we find that the manner in which the respondents conducted the selection, even if it be not strictly in accordance with the Establishment Serial Circular, dated 14.11.1986, cannot be said to have suffered from any such irregularity, as would ~~have~~ warranted our interference, at this stage. In the result, we are unable to accede to the claim of the applicants and the application is hereby dismissed. There shall, however be, no order as to costs.

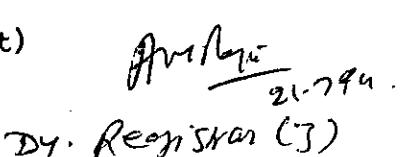

(A.B. GORATHI)
Member (Admn)


(A.V. HARIDASAN)
Member (Judl.)

Dated: The 15th July, 1994

(Dictated in the open court)

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21-7-94
Dy. Registrar (J)

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Typed by

Compared by

Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIOSAN: MEMBER(J) ✓

AND

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

Dated: 15/7/94.

ORDER/JUDGMENT. ✓

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Admitted and Interim Directions
Issued.

Allowed.

Dismissed of with directions.

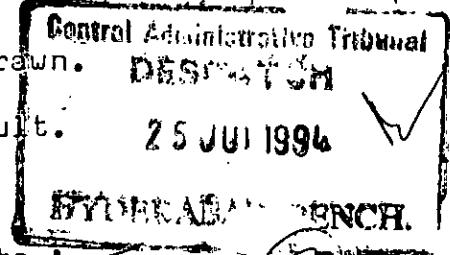
Dismissed. ✓

Dismissed as withdrawn. DESGRT

Dismissed for default. 25 JUL 1994 ✓

Rejected Order. ✓

No order as to costs. ✓



25/7/94
K.V.