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# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 22/91

Date of Decision : 7-1-1991.

T.A.No.

Petitioner.

Advocate for the  
petitioner (s)

Versus

Respondent.

Advocate for the  
Respondent (s)

CORAM :

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

THE HON'BLE MR. J. NARASIMHA MURTHY : MEMBER (JUDICIAL)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *No*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

*B.N.J.*

(B.N.J)

VC

*J.N.M.*

M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

DA 22/91.

Date of Decision: 7-1-1991.

1. Joseph George
2. S.G.Naidu
3. K.Nageshwar Rao
4. M.Surender
5. V.K.Suresh
6. Ankusham

.....Applicants

Versus

1. General Manager,  
South Central Railway,  
Secunderabad-500 371.
2. Divisional Railway Manager (MG),  
SC Railway, Hyderabad Division/Sec'bad.
3. Ram Mohan
4. B.Laxmi Narayana
5. Mohd. Jahangir
6. M.A.Rahim
7. M.Shanker Rao

....Respondents

Counsel for the Applicants : Shri N.Raghavan

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 J.NARASIMHA MURTHY : MEMBER (J)

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

The applicants who are six in number are Electrical  
Fitter Grade-I in the office of Chief Electrical Foreman,  
South Central Railway, Hyderabad (MG) Secunderabad. They  
have filed this application aggrieved by <sup>The</sup> order No.YP/Con.  
605/Selc/App.Mech (Elec) dated 2-1-1991, passed by the

bns

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Divisional Railway Manager (MG), S.C.Railway, Sec'bad,  
selecting certain persons to the post of Apprentice  
Mechanic (Elec) against 25% L.D.C.E. quota.

2. The applicant states that by a notification dated 7/10-11-1988, the 2nd respondent notified that two posts of Apprentice Mechanic (Elec) in scale Rs1,320-30-1, 1,350 <sup>were</sup> <sub>^</sub> existing, out of which one was notified as reserved for Scheduled Caste and one vacancy for other communities. would be The candidates who/selected through these notification were meant for filling-up of two posts (one post for SC and one post for OC) against 25% quota (LDCE) of Electrical Chargeman in Gr.Rs1,400-2,300 reserved for serving Artisans staff. As there was only one vacancy, the applicants being juniors did not apply for volunteering to the selection process. However due to certain influences by office bearers of the unions, the 2nd respondent without calling for volunteers <sup>s</sup> a fresh for more posts/vacancies, proceeded with the results of the written examination of the candidates who volunteered against one vacancy only. The applicants contend that this action of the 2nd respondent in trying to fill-up six vacancies although only one vacancy had been notified is contrary to the circular of C.P.O., S.C. published in S.C.Railway Gazette S.No.12 of 15-6-1987 S.No.147 para 1.6. They state that the action of the respondents is contrary to these instructions and unequal protection under law. They also stated that they have

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(3)

submitted a representation dt.4-1-1991, but it has not so far been disposed-of by the Respondents.

3. We have heard Shri N.Raghavan, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for Railways, who takes notice at the admission stage at our instance. He takes initial objection that the applicants submitted their representation on 4-1-1991 ~~as~~ and before the respondents could have considered it, the applicants have rushed to this Tribunal. He says that the application is premature under section 21 of the Administrative Tribunals Act, 1985. Shri Raghavan submits that ~~as~~ the announcement of the panel is contrary to the circular of the C.P.O., wherein it is clearly stated that once an alert notice issued, the number of vacancies should not be changed and if there is any change in the number of vacancies due to unforeseen circumstances, the selection has to be cancelled and a fresh selection has to be ordered. As any appointment <sup>made</sup> on the basis of the panel prepared is contrary to these instructions it will prejudice ~~to the case of~~ <sup>The current position</sup> the applicants if allowed to be implemented. For these reasons he had to file this application even before the respondents could have considered the representation of the applicants dt.4-1-1991.

4. On a consideration of these rival submissions, we find that the application is barred under section 21 of

*BNJ*

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Administrative Tribunals Act, 1985 for non-exhaustion of the alternative remedies available. However having regard to the arguments of Shri Raghavan, a direction will issue to the respondents to dispose-of the representation dt.4-1-1991 preferred by the applicants after duly considering the submissions made therein and till such disposal of the representation dt.4-1-1991, the respondents will not act upon the panel prepared in memo No.YP/Con-605/Selec/ App.Mech(Elec) dated 2-1-1991. Application is dismissed as premature. No order as to costs.

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

M  
(J.NARASIMHA MURTHY)  
Member (Judicial)

Dated: 7th January, 1991.  
Dictated in Open Court

D. Devaraj  
Deputy Registrar (J)

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To

1. General Manager, South Central Railway, Secunderabad-71.
2. Divisional Railway Manager (MG), SC Railway, Hyderabad Division, Secunderabad.
3. One copy to Mr. N. Raghavan, Advocate, No.113, Jeera Compound, Secunderabad.
4. One copy to Mr. N.R. Devaraj, SC for Rlys.
5. Ram Mohan C/o Chief Electrical M<sup>t</sup>ry, Member (J), B. Laxmi Narayana Foreman, SC Railway, Hyderabad (MG), Mohd. Jahangir Secunderabad.
6. M.A. Rahim
7. M. Shanker Rao
8. One Spare Copy.

srr/

On 01/01/91