

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.658 of 1991

DATE OF JUDGMENT: 26th August, 1993

BETWEEN:

Mr. S.Srinivasan ..

Applicant

AND

1. Union of India represented by
the General Manager,
South Central Railway,
Secunderabad.

2. The Divisional Railway Manager,
S.C.Railway,
Guntakal.

3. The Senior Divisional Personnel Officer,
S.C.Railway,
Guntakal,
Anantapur District. ..

Respondents

HEARD:

COUNSEL FOR THE APPLICANT: Mr. T.Laxminarayana, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. D.Gopal Rao, SC for Railways

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO,, VICE CHAIRMAN

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (ADMN.)

JUDGMENT:

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

The applicant was working as Mechanic in South Central Railway Employees Consumer Cooperative Stores Ltd. A notification No.G/P.608/IX/Staff Car., dated 11.12.1987 was issued by the Divisional Personnel Officer, Guntakal calling for applications to fill up five posts of Motor Vehicle

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Drivers in the scale of pay of Rs.950-1500 from among the regular staff, casual labour drivers and casual labour on monthly scale of pay on that division. The applicant submitted his application which was forwarded by the Secretary of the SCR Employees Consumer Cooperative Stores Ltd., by the letter dated 23.12.1987. Therein, it was stated that the applicant was eligible for screening/recruitment vide Railway Board letter No.E(NG)III 77 RRI/5, dated 26.8.1977 (Establishment Serial Circular No.111/77, circular letter No.P(R)564/Pt.II dt.26.9.77) for class-IV category and regarding class-III Board has issued instructions vide their letter No.78/CN-1-8 of 7.6.1978 (CPO/SC Lr.No.P.40/GL of 12.6.1978).

2. After the due process of trade test and screening, the applicant was empanelled at Sl.No.6. This was followed by the medical examination and after being found fit in B-1 category on 15.2.1988, he was issued the orders of posting as Hippo Hauler Driver. The applicant joined the post on 28.3.1988. More than three years later, ie., on 30.4.1991, a show cause notice was issued to him stating that he did not fulfil the conditions laid down in the notification issued on 11.12.1987. It was proposed to delete the name of the applicant from the panel issued in February 1988. It was also stated that in terms of the instructions contained in the Railway Board letter No.78 dated 26.8.1977, the staff working in the cooperative stores are eligible for regular absorption only in Class-IV. The applicant submitted ^{his} explanation on 8.5.1991. Thereafter, the impugned order dated 17.6.1991 was issued terminating the services of the applicant with immediate effect. The same is challenged in this OA.

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3. The main ground advanced by the respondents is that as per the notification dated 11.12.1987, only regular staff, casual labour drivers and casual labour on monthly scale of pay in the division were eligible to apply for the post of Motor Vehicle Driver. An employee in the SCR Employees Consumer Cooperative Stores in the division is not eligible for applying for the said post and hence his appointment should be treated as irregular.

4. We note that as the applicant possesses necessary qualification and on comparative merit, he was placed in the panel. He was employed for more than three years, apparently without any adverse functioning coming to the notice of the administration. The applicant had not committed any irregularity or fraud in applying at the time of consideration for empanelment. Even the Secretary of the Cooperative Stores under whom the applicant was working had forwarded his application with recommendations and the bonafides on the applicant of the Secretary cannot be doubted. It will cause hardship to the applicant if, at this stage, he is faced with termination for he may be age-barred for further employment. Strictly speaking, he may not come within the categories mentioned for eligibility for consideration as per the notification dated 11.12.1987. However, in the circumstances of the case and on humanitarian grounds, we feel, it will be just and proper to set-aside the order of termination and direct for reinstatement as Motor Vehicle Driver in the next available vacancy by treating the interregnum period as leave without pay.

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5. The OA is ordered accordingly. No costs.

(Dictated in the open Court).

P. J. D. A.

(P.T. THIRUVENGADAM)
MEMBER (ADMN.)

V. Neeladri Rao
(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 26th August, 1993.

vsn

8/19/93
Dy. Registrar (Judl.)

Copy to:-

1. General Manager, South Central Railway, Union of India, Secunderabad.
2. The Divisional Railway Manager, S.C.Railway, Guntakal.
3. The Senior Divisional Personnel Officer, S.C.Railway, Guntakal, Anantapur Dist.
4. One copy to Sri. T. Laxminarayana, advocate, CAT, Hyd.
5. One copy to Sri. D. Gopal Rao, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

P. J. D. A.
1/2/93

C.C. by
2/9/93 O.A. 652791

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.RIRUVENGADAM:M(A)

Dated: 26/8/1993

ORDER/JUDGMENT

M.A/R.A/C.A.N.

O.A. No.

in 652791

P.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

