

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: :HY

O.A.No.704/91.

Date of Decision:

1/9/93.

Between:

1. K. Radhakrishnan
2. P. Gowri Shankar
3. P. Subrahmanyam
4. K. Chandra Mouli
5. R. Nagaraj
6. P. Ramesh
7. K. Munichengaiyah

..

Applicants

And

1. The Chief Personnel Officer,
South Central Railway
Sec'bad.
2. Deputy Chief Mechanical Engineer,
Personnel Branch,
Carriage Repair Shop,
Tirupathi.
3. Workshop Personnel Officer,
Carriage Workshop,
Thirupathi.

..

Respondents

APPEARANCE:

Counsel for the Applicants : Sri P. Krishna Reddy, Advocate

Counsel for the Respondents : Sri N. V. Ramana, SC for Rly.

CORAM:

HON'BLE MR. JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

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

(JUDGMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE
SRI P.T. THIRUVENGADAM, MEMBER (A))

...

The applicants are sons of displaced persons
whose lands were surrendered for the construction of

... 2/-

94

Carriage Repair Workshop at Tirupathi. Vide Employment Notice No.1/CRS/DP/85 under reference No.TR/P.563/DP dt. 12-7-1985 applications were called for appointment of displaced persons in various categories. The applicants who fulfilled the conditions for empanelment of Skilled Artisans were subjected to written test and viva-voce and were included in the panel published on 5-6-1987. Offers of appointment were issued to the applicants on and from 23-6-1987.

2. Simultaneously, recruitment of Skilled Artisans from open market ITI candidates was being processed and this panel was finalised on 21-3-1987 and offers of appointment were issued on and from 29.6.1987.

3. Both the above said recruits were subjected to 9 months training and at the end of training were absorbed as Skilled Artisans. A provisional seniority list of Artisan staff was published initially on 15-1-1990 and applicants represented that they should be given seniority above all the direct recruits based on the recommendations of the Field Co-ordination Committee which had suggested the order of absorption of staff as under:-

- Priority No.1 : Volunteers
- Priority No.2 : Land Loosers
- Priority No.3 : Screened Project Casual Labourers
- Priority No.4 : Nominated from Open Market
- Priority No.5 : Request transfer on bottom seniority

22/8/

(75)

In the meanwhile, the Chief Personnel Officer, South Central Railway, prescribed certain guidelines with regard to seniority of Optees vis-a-vis certain other modes of recruitment/absorption. Based on these, a further seniority list was published on 3-9-1990. Even in the revised seniority list, the applicants found that they were shown en-block junior to the direct recruits. A representation was submitted by the applicants on 12-9-1990 drawing ^{again} the attention to the minutes of Field Co-ordination Committee. Representations ^{was} were rejected by 2nd respondent on the ground that the seniority (Revised List) was prepared as per guidelines issued by ¹ Respondent No.1 in his letter dt. 24-7-1990. After rejection of the representation of the applicants, 2nd respondent published a notice on 8-12-1990 maintaining the seniority position of the applicants as in the earlier seniority list. This impugned seniority list dt. 8.12.1990 has been challenged in this O.A.

4. The main grounds relied upon by the applicants is that the Field Co-ordination Committee, in its meetings held on 29-12-1986 and 17-6-1987, laid down certain priorities for absorption. In this O.A. the applicants challenged their position vis-a-vis direct recruits ^{only}.

5. The learned counsel for the respondents brought out that the Field Co-ordination Committee, though comprising officers of various disciplines can only make recommendations and it is for the Chief Personnel

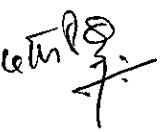
332
19/1



Officer, to decide the principles regarding seniority between various groups. We find, there is force in the argument of the learned counsel for the respondents that the Field Co-ordination Committee can only lay guidelines and even these guidelines were only with regard to priority in absorption and not with regard to laying down the principles of seniority between various groups. In rejecting the representation of the applicants against the revised seniority list 2nd respondent had taken the stand that the seniority positions were assigned as per guidelines issued by the Chief Personnel Officer, South Central Railway vide letter No.P-612/MECH/CRS/TPYS/22 dt. 24.7.1990. We have gone through the said letter dt. 24.7.1990 and find that there is no reference with regard to relative seniority between displaced persons and direct recruits. However, at the time of filing the reply affidavit the respondents have taken the position that the displaced persons as well as direct recruits have both been recruited against the direct recruitment quota reserved for filling up the posts of Skilled Artisans. The learned counsel for the respondents referred to para-306 of Indian Railway Establishment Manual, which reads as under:

~~"306: Candidates selected for appointment at an earlier selection shall be senior to those selected later irrespective of the dates of posting except in the case covered by paragraph 305 above."~~


Contents of para-305 referred to above are not relevant to the subject matter of this litigation.



(11)

should apply to
Para-306 defines selections of the same mode e.g., if recruitment is made from open market repeatedly, the candidates empanelled in the earlier panel would rank enmasse senior to candidates in the next panel. But, this is an issue where apart from the open market the candidates (from) Land Loosers have been considered, more by way of screening to decide the suitability for various posts. Hence, we feel that the provisions of para-306 may not be applicable in this case.

6. Learned counsel for the respondents also referred to the provisions in para-³²⁶302 of Indian Railway Establishment Manual. We do not have to advert to this paragraph, since as per para-301 of the same manual, the contents of paragraphs 324 to 328 are of special application only to non-gazetted employees of Diesel Locomotive Works.

7. Thus, in effect, no relevant rules could be advanced by either side as regards the principles of seniority to be followed in this case. Hence, we have to see whether a rational method could be adopted taking into account the following factors:

(a) It was the agreed position that vacancies of Skilled Artisans should be first filled from displaced persons and only the remaining vacancies are to be filled from open market. This has also been mentioned in the letter of Chief Personnel Officer dt. 24.6.1985 bearing No.P.263/Mech/CRS/TFTY/7.

Stb/PG
J.

78

(b) Number of displaced persons is relatively small compared to open market candidates.

(c) The mode of recruitment from displaced persons is similar to compassionate appointments. In that, the candidates are subjected to check their suitability rather than picking out the best amongst them. Hence, the adoption of method of fixing seniority for compassionate appointees in the case of displaced persons would be rational.

8. In the above circumstances, we feel that it would be just and proper if the seniority of displaced persons is based on their absorption in Skilled Grade retaining the respective positions in that panel. These candidates should be interpolated along with direct recruits whose seniority is reckoned from the date of regular absorption in skilled categories duly taking into account ^{their} the relevant panel position.

9. The O.A. is disposed-of with the above observations.
No costs.

P. J. T. C

Neeladri

(P.T.Thiruvengadam)
Member(Admn.)

(V.Neeladri Rao)
Vice-Chairman.

Dated 6/7 July, 1993.

8558
Deputy Registrar

To

1. The Chief Personnel Officer, S.C.Rly, Secunderabad.
2. The Deputy Chief Mechanical Engineer,
Personnel Branch, Carriage Repair Shop, Tirupati
3. The Workshop Personnel Officer, Carriage Workshop, Thirupathi.
4. One copy to Mr.P.Kishna Reddy, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

6/7/93
Page 0/7

IN
C
TYPED BY
CHECKED BY

COMPARED 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 M.A.B. GORTY : MEMBER(AD)

AND

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

AND

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

Dated : 6 - 7 - 1993

~~ORDER/JUDGMENT:~~

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

in

O.A. No. 704/91

T.A. No.

(w.p.)

Admitted and Interim directions
issued

Allowed

Disposed of with directions

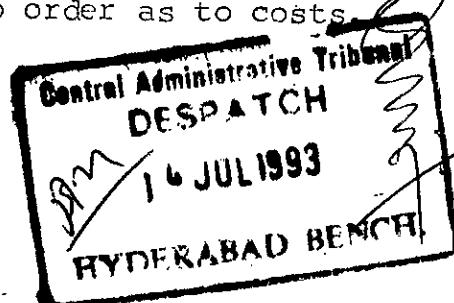
Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/ Ordered

No order as to costs



pvm