

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

O.A. No. 1005/91

Date of Decision: 7.9.91

~~Ex. No.~~

Mr. B. Ekambaram and 11 others Petitioner.

Mr. M. Jagannadha Sarma Advocate for
the Petitioner(s)

Versus

The Chief Commr. Supdt., SC Rly, Sec'bad and
3 others Respondent.

Mr. N. V. Ramana Advocate for
the Respondent
(s)

COR M:

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

THE HON'BLE MR. C. J. Roy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
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.)

HRBS
M(A)

HCJR
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1005 of 1991

DATE OF JUDGMENT: 7th SEPTEMBER, 1992

BETWEEN:

S/Shri

1. B.Ekambaram
2. T.Muniswamy
3. E.Guravaiah
4. S.Krishnaiah
5. K.Perumal
6. PSLN Rao
7. S.S.Babu Rao
8. J.Satyananda Rao
9. J.Ramanjaneyulu
10. B.J.Prabhudas
11. J.Bhaskar Rao
12. S.Anandan

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Applicants

AND

1. The Chief Commercial Superintendent,
South Central Railway,
Secunderabad.
2. The Chief Personnel Officer,
S.C.Railway,
Secunderabad.
3. The Divisional Commercial Superintendent,
S.C.Railway,
Guntakal.
4. The Senior Divisional Personnel Officer,
S.C.Railway,
Guntakal.

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Respondents

COUNSEL FOR THE APPLICANTS: Mr. M.Jagannadha Sarma

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, SC for Rlys.

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER(JUDL.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by 12 applicants claiming a relief to direct the respondents to absorb them in the regular service of Class IV post as per the Railway Board's letter dated 26.4.1978 and directions of the Hon'ble High Court of Andhra Pradesh in Writ Petition No.8693/84, with effect from the date on which the other petitioners in the W.P.No.8693/84 had been absorbed as Bearers and to hold that the applicants are entitled for preferential absorption over the Vendors/Bearers.

2. The facts in brief are as follows:-

The applicants herein were appointed as Commission Bearers at Cuddapah Railway Station of South Central Railway during the period 1979 to 1983. In pursuance of the Railway Board's letter No.E(G)111178 RR1/7, dated 26.4.1978, the (integrated) Guntakal Railway Division prepared a comprehensive seniority list showing the Commission Bearers and Vendors for absorption as Bearers in Class IV post. This action was questioned in W.P.No.8693/84 before the High Court of Andhra Pradesh which granted interim order not to implement the integrated seniority list of Commission Bearers and Vendors. The Writ Petition was disposed of with a direction to the respondents to fill-

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up the Class IV posts from among the Commission Bearers whose names appear in the seniority list. The Guntakal Railway authorities in pursuance of the above directions, considered only 7 petitioners out of 19 petitioners in the W.P.No. 8693/84 for absorption leaving the applicants herein. The applicants made representations but no action has been taken by the Railway authorities. Hence this application.

3. The respondents filed a counter which, in brief, reads as follows:-

They state that this application is premature and also barred by Resjudicata as the applicants filed W.P.No. 8693/84 for the same relief the applicants herein sought in this application. The Judgment of the Hon'ble High Court was implemented and 35 Commission Bearers ~~xx~~ were absorbed in Class IV posts. At present, there are no vacancies and as and when vacancies arise, the case of the applicants will be considered for absorption as per the seniority list etc. The Railway Board's orders are to absorb the Commission Bearers first and to absorb the Vendors after exhausting the Commission Bears and there is no irregularity or illegality in not absorbing the applicants herein and their turn will come as and when vacancies arise. Hence, the application is to be dismissed.

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4. The applicants filed a rejoinder to the counter stating that the principle of res judicata is not attracted vide S.11 CPC since the High Court is not competent to try the present O.A.

5. The applicants filed M.A.No.1262/91 seeking permission to file the single O.A., in respect of all the applicants, since the cause of action and the relief sought for is one and the same. The M.A. was rejected on the ground that the applicants were not able to specify that a common order would serve the interest of all the applicants. However, on a review, in Review Petition No.14/92, it was observed that whatever order passed by the Railway administration will affect to the applicants in the same manner one way or the other and the applicants are all placed in a similar situation. Hence, the Review Petition was allowed permitting the applicants to file the single O.A., in respect of all the applicants.

6. We have heard Ms. K.Sreekala for Mr. M.Jagannatha Sarma, learned counsel for the applicants and Mr. N.V.Ramana, learned Standing Counsel for the Respondents.

7. It is a fact that the respondents, in pursuance of the directions of the Hon'ble High Court of Andhra Pradesh in W.P.No.8693/84, absorbed 35 Commission Bearers as per their seniority. The respondents in their counter at para-3 also stated that the contempt petition No.344/86 filed by the applicants before the Hon'ble High Court of Andhra Pradesh,

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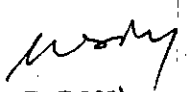
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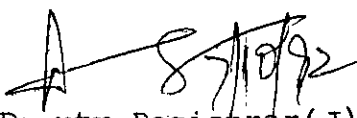
questioning the empanelment of S/Shri S.Gafoor, S.Ramaswamy and S.Ismail bearing S.No.1, 6 and 8 of the proceedings dated 24.2.1987, has been dismissed on 20.11.1987 after recording the fact that the Railway administration has absorbed most of the petitioners therein and the remaining would be absorbed when vacancies arise in the future.

8. In view of the above, we direct the respondents to consider the case of the applicants also for absorption in the service of Class-IV posts, according to their ^{turn} line, as and when vacancies arise.

9. With these directions, the applica^{-tion} is disposed of with no order as to costs.


(R. BALASUBRAMANIAN)
Member (Admn.)


(C.J. ROY)
Member (Judl.)

Dated: 7th September, 1992.  Deputy Registrar(J)

To

1. The Chief Commercial Superintendent, S.C.Rly, Secunderabad.
2. The Chief Personnel Officer, S.C.Railway, Secunderabad.
3. The Divisional Commercial Superintendent, S.C.Rly, Guntakal.
4. The Senior Divisional Personnel Officer, S.C.Rly, Guntakal.
5. One copy to Mr.M.Jagannadha Sarma, Advocate, 3-6-226,
vsn Himayatnagar, Hyderabad.
6. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
7. One spare copy.

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