

(62)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1177/91

Date of Order:22.2.94

BETWEEN :

D.R.John

.. Applicant.

A N D

The Union of India Rep. by :-

1. The General Manager,
South Central Railway,
Secunderabad - 500 371.
2. The Chief Personnel Officer,
South Central Railway,
Secunderabad - 500 371.
3. Chief Medical Officer,
South Central Railway,
Secunderabad - 500 371.
4. The Chief Hospital Supdt.,
South Central Railway,
Lallaguda Hospital,
Secunderabad - 500 017.
5. Balaraj, O.T.Assistant,
Chief Hospital Supdt.,
S.C.Railway, Lallaguda,
Secunderabad.
6. K.Johnson, Dresser,
Chief Hospital Supdt.,
Lallaguda, Secunderabad.
7. Smt. Krishnakurami, o/o
Chief Hospital Supdt.,
Lallaguda, Secunderabad.
8. C.Ananda Rao, o/o
Chief Hospital Supdt.,
S.C.Railway, Lallaguda,
Secunderabad.
9. V.Balachandran, Senior
Hospital Attendant, o/o C.H.S
S.C.Railway, Lallaguda,
Secunderabad.
10. Balaraj Sayanna, Dresser, o/o C.H.S
S.C.Railway, Lallaguda,
Secunderabad.
11. C.Bhaskaran, Reg. Dy. Assistant, o/o C.H.S
S.C.Railway, Lallaguda,
Secunderabad.
12. P.Pathi Raju,
Sr. Hospital Assistant, o/o C.H.S
S.C.Railway, Lallaguda,
Secunderabad.

.. Respondents.

(RS to 12 completed as per the order of the Tribunal dt 26.2)

...1 A ...

Counsel for the Applicant .. Mr.M.C.Pillai

Counsel for the Respondents .. Mr.N.V.Ramana

CORAM:

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

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

1/10/99

J U D G M E N T

[as per Hon'ble Sri R.Rangarajan, Member(Administrative)]

Applicant was initially appointed as a Group 'D' employee on 1.5.1961 and was posted in the office of the Chief Medical Officer (C.M.O. for short) at Secunderabad. He was subsequently promoted as a Record Sorter in Group 'D' in the year 1987 and was further promoted on adhoc basis as Junior Clerk with effect from 26.4.1990. As he is only an adhoc Junior Clerk, his substantive post is only in Group 'D' and thus he is eligible for promotion to the post of Junior Clerk in ~~Group 'D'~~ against $33\frac{1}{3}\%$ quota earmarked for Group 'D' staff to the post of Junior Clerk in Group 'C'.

2. R-2 under his letter dt. 3.6.1991 invited applications from eligible Group 'D' staff under C.M.O., Secunderabad and Chief Hospital Superintendent (C.H.S. for short), Lalaguda, Secunderabad for selection to $33\frac{1}{3}\%$ promotional quota of Junior Clerks. 10 candidates applied for the post of Junior Clerk against this notification issued by R-2. Out of those seventeen who applied in response to the notification three were found to be ineligible to write the examination. Eight applicants who responded to the notification were staff of the para-medical wing of C.H.S., Lalaguda and the rest six were Group 'D' staff from the offices of C.M.O., HQ, Sec'bad and C.H.S., Lalaguda, Sec'bad. The applicant is one of the six applied against the notification from the office group of C.M.O., HQ., Sec'bad.

3. Protesting against the inclusion of eight para-medical staff in the eligible list for appearing for the selection of Junior Clerk against the $33\frac{1}{3}\%$ quota, the applicant

...3/-

65

submitted a representation to Respondent No.2. In his representation, the applicant requested for deletion of the names of the Eight para-medical staff from the eligible list and to conduct the selection only with the candidates belonging to office wing of Group 'D' staff of C.M.O., Sec'bad and C.H.S., Lalaguda. It is alleged that without considering his representation, R-2 conducted the written and supplementary test. The applicant submits that Group 'D' para-medical staff are not eligible for appearing in the selection for Junior Clerk. Hence he has filed this O.A. praying for a declaration that the inclusion of the candidates for appearing ^{to} Clerical selection from para-medical wing in the impugned list circulated under letter No.P/MD/531/Vol.II dt. 1.10.91 by R-2 is illegal, malafide and unconstitutional and for a further direction to R-1 to conduct the said selection only with candidates from Group 'D' office wings of C.M.O., Sec'bad and C.H.S., Lalaguda, Sec'bad.

4. The short point to be decided in this O.A. is whether the Group 'D' para-medical staff of C.H.S., Lalaguda are eligible for appearing for the selection to the Group 'C' post of Junior Clerk against the $33\frac{1}{3}\%$ quota of promotion from Group 'D' staff. This point can be decided on the basis of the avenue chart issued from time to time. The Avenue Chart records will clearly indicate whether the para-medical staff of CHS, Lalaguda are included in the eligibility list or not for consideration to the above said selection.

5. The applicant relies on the Avenue Chart of Medical Department as on 1.3.1988 bearing No.P(M.D.)/529/Vol. dt. 21.3.1988 under the 5th heading - Clerical Staff and the Avenue Chart for Hospital Class-IV staff - Medical Dept. bearing the No.P(M.D.)/536/Avenue/Class-IV/II dt. 21.3.1988 to prove that para-medical staff of C.H.S., Lalaguda are ineligible to participate in the selection for Junior Clerk against the $33\frac{1}{3}\%$ quota.

3.2.97

2

(66)

: 4 :

6. The respondents rely on the circular bearing No. P(M.D.)531/Avenue Chart dated 20.12.1984/4.1.1985 which gives the avenue of promotion for Peons and record sorters as office clerks in the grade of Rs.260-400 (R.S.) against $33\frac{1}{3}\%$ quota - Unified procedure.

7. The above charts were examined. The chart for promotion of office peons and Record Sorters as Office Clerks dt. 20.12.1984/4.1.1985 relied upon by R-2 is in supersession of the Avenue Chart issued vide office letter No.P(R)/531 dt. 8.4.1976. As per the Avenue Chart of 8.4.1976 the Class-IV staff of C.M.O., HQ office was attached with other Class-IV staff of H.Qs. Rail Nilayam Unit for promotion to Group 'C' Clerical posts against the $33\frac{1}{3}\%$ quota. The Class-IV staff of C.H.S., Lalaguda was attached to Sec'bad Division. This chart as stated earlier was superceded by the Avenue Chart dt. 20.12.1984/4.1.1985. As per this Chart which was drawn up in consultation with both the recognised Unions, (Group 'D' staff of CMO's office) which was hitherto clubbed with other branches in H.Qs. office for promotion from Class-IV to Class-III category was seperated and clubbed with H.Q. hospital, Lalaguda as seperate unit. As per this amended Avenue Chart for the Medical Department all Class-IV staff in C.M.O. office H.Q., Sec'bad and H.Q's hospital, Lalaguda form\$ one unit for the purpose of promotion to Junior Clerk against $33\frac{1}{3}\%$ quota. The learned further counsel for the respondents/submit that all Class-IV staff of H.Q's hospital, Lalaguda include\$ the para-medical Class-IV staff of the Lalaguda Hospital. Thus the divisions have their own unit for the above said selection and C.M.O., and C.H.S., Lalaguda, Sec'bad combined form\$ another unit.

...5/-

Q

4th/8/85

: 5 :

8. The first Avenue Chart for Medical Department bearing No.P(M.D.)529/Vol. dt. 21.3.1988 which was relied upon by the applicant was examined with particular reference to the Clerical staff under item-5. This chart does not talk about various feeder category of Group 'D' staff for $33\frac{1}{3}\%$ selection. Even the note under Column-I in this Avenue Chart indicates only the selection from Class-IV staff of the Division and does not indicate anything regarding the C.M.O./C.H.S. units. Hence, this chart is not of any use to decide the issue. The Second Avenue Chart dt. 21.3.1988 relied upon by the applicant gives the avenue of promotion for hospital Class-IV staff and conservancy Class-IV staff of medical department. A perusal of this Avenue Chart attached to this letter indicates that this Chart is mainly intended for promotion of Class-IV staff within Group 'D' and it does not indicate at all promotion to Clerical post against $33\frac{1}{3}\%$ quota. Shri Pillai, learned counsel for the applicant laid emphasis on the item-2 in the note attached to the letter which states "H.Q. Hospital, Lalaguda will be a separate unit".

9. This item-2 of the note was interpreted by him to mean that the clubbing of Class-IV office staff of the Lalaguda Hospital along with office Group 'D' staff of C.M.O.'s office and other para-medical Group 'D' staff of the hospital for promotion to Clerical cadre is incorrect. However, this Avenue Chart dt. 21.3.1988 as stated earlier mainly deals with promotion within Group 'D' of hospital Class-IV staff and has no relevance for promotion to Group 'C' Clerical post against $33\frac{1}{3}\%$ quota. Hence, the interpretation

...6/-

5th Reg.

of the learned counsel for the applicant that the item-2 of the note of this Avenue Chart excludes the Class-IV staff of C.H.S., Lalaguda for appearing for the Group 'C' Clerical selection is not borne out by records. Hence this contention fails.

10. The second contention of the learned counsel for the applicant is that the Avenue Chart dt. 20.12.1984/4.1.1985 is superceded by the Avenue Charts issued later in the year 1988. This contention also cannot be accepted as the Avenue Charts issued in 1988 do not indicate anywhere that these charts are in supersession of the charts issued earlier in 1985. This inference is also drawn because of the fact that the Charts issued in the year 1988 do not talk of Feeder categories for promotion to Clerical posts against $33\frac{1}{3}\%$ quota. Hence, we have no hesitation in saying that the Avenue Chart dt. 20.12.1984/4.1.1985 for promotion to the cadre of Junior Clerks against $33\frac{1}{3}\%$ quota is the current avenue chart to be followed for the above selection. // The only point further to be clarified is whether the amended chart which indicates as one unit for all Class-IV staff in C.M.O's H.Q. office and H.Q. Hospital, Lalaguda for the purpose of promotion to Junior Clerk includes the para-medical Class-IV staff of the C.H.S., Lalaguda or not? If the para-medical staff are not included then, it could have been easily worded to indicate that the office Class-IV staff of C.M.O. and C.H.S., Lalaguda are forming one unit for promotion to Clerical Cadre. The very fact that it is not said so means that the word all Class-IV staff of H.Q. Hospital Lalaguda will include the para-medical staff also. Even in the note-1 under Clerical Staff Avenue Chart issued on 21.3.8

...7

6-11-87

A

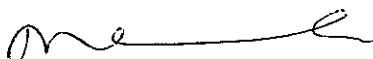
69


: 7 :

it has been clearly indicated that all the Class-IV staff of Medical Department including Peon and Record Sorter of a particular division form one unit for the purposes of promotion to Clerical Posts. This strengthens the above interpretation that the phrase "all Class-IV staff of H.Q. Hospital, Lalaguda" includes the para-medical staff also. Any other interpretation will not be realistic.

11. From the above appreciation, it can be safely concluded that the current Avenue Chart for promotion of office Clerk against $33\frac{1}{3}\%$ quota is the one bearing No.(P(MD)531/Avenue Chart dt. 20.12.1984/4.1.1985 and as the said proceedings are not challenged, and all the para-medical staff of H.Q. Hospital, Lalaguda are eligible for consideration for promotion to Clerical Grade against $33\frac{1}{3}\%$ quota. Hence, inclusion of the Eight names of the para-medical staff in the eligible list of candidates who have applied in pursuance of the notification issued on 3.6.1991 for appearing for Clerical post against $33\frac{1}{3}\%$ is in order.

12. In the result, we find no merit in this O.A. and hence this O.A. is only liable to be dismissed. Accordingly we do so. No costs.


(R.Rangarajan)
Member(Admn.)


(V.Neeladri Rao)
Vice-Chairman

Dated ²² Feb., 1994.


Deputy Registrar(J)ce

To Grh.

1. The General Manager, Union of India, S.C.Rly, Secunderabad-371.
2. The Chief Personnel Officer, S.C.Rly, Secunderabad-371.
3. The Chief Medical Officer, S.C.Rly, Secunderabad-371.
4. The Chief Hospital Superintendent, S.C.Rly,
Lallaguda Hospital, Secunderabad-17.
5. One copy to Mr.M.C.Pillai, Advocate, CAT.Hyd.
6. One copy to Mr.N.v.Ramana, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm

2/1/94
7/6/94
J.