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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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O.A.962/92

Dt.of order:20.9.95

Between

1. Hyder Hussain  
2. N.Damodar Reddy  
3. Ch.S.Prasada Rao  
4. J.Gopalakrishna Murthy  
5. Jaini Suryanarayana  
6. Shaik Mahaboob Saheb  
7. P.Jaya Gopi  
8. Petnuri Someswara Rao .. Applicants  
and

1. Chief Personnel Officer, SCRly,Railnilayam,Sec'bad  
2. Chief Engineer,SCRly,Railnilayam,Sec'bad  
3. K.L.Narasimha Rao  
4. H.T.Prakash  
5. T.Ravindra Kumar  
6. D.V.Vijayakumar  
7. A.Venkataswamy Goud  
8. B.Venkateswara Rao  
9. V.Ramachandraiah  
10.D.Venkatramanana  
11.GVVS Mallikarjuna Rao  
12.M.Dakshinamurthy .. Respondents

Counsel for the applicants :: Mr P.Krishna Reddy

Counsel for the respondents :: Mr V.Bhimanna,CGSC

CORAM:

HCN'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN  
HCN'BLE SHRI R. RANGARAJAN, MEMBER(ADMN)

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ORDER

As per Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Heard Shri P.Krishna Reddy, learned counsel for the applicant and Shri V.Bhimanna, Standing Counsel for the respondents.

2. These 8 applicants and R3 to R12 herein are some of those who were selected for the post of Inspector of Works Gr.III on the basis of the selection made by the Railway Services Commission, in pursuance of its Notification No.2/80. These applicants and some others were sent for training on 1.9.1981, while R3 to R12 and some others were sent for training on 1.12.1981. These applicants passed the examination that was conducted on 5.6.82 on completion of their training, while R3 to R12 appeared for the examinations conducted on 2.9.82 and later after the completion of the training.

3. It is not in controversy that the applicants are seniors to R3 to R12 as per the panel position supplied by the Railway Services Commission in regard to the post of Inspector of Works. (R3 to R12 have not made their appearance even though they were served with notices) that those who were sent for training which commenced on 1.9.81 are seniors to those who were sent for training which commenced on 4.12.81 as per the panel position supplied by the Railway Services Commission. But, when R3 to R12 secured marks more than the marks secured by the applicants herein in the examination that was conducted after the completion of training,

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R3 to R12 were placed above the applicants in the seniority list of Inspector of Works Gr.III in SCRly/ which was published on 7.3.89. Thereupon, the applicants made a representation dated 13.4.92 by stating that it is not just and proper to compare the merit on the basis of marks secured at different examinations/when the same was turned down by order dated 29.4.1992, the same is assailed in this OA.

4. Para 303(a) of the Indian Railway Establishment Manual which reads as under, is relevant for consideration of this OA.

"303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:

(a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses."

For want of sufficient accommodation in the Training Institute, it is becoming unavoidable inevitable to Railways to send the selected candidates for training in different batches. Normally, the

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panel position in the select list is followed for sending them for training. It means that, while the seniors as per the merit list are sent for training in the first batch, those below, are sent in the later batch or batches. Independent posting can be given only on passing the examination conducted after the completion of the training. Whenever selected candidates are being sent for training, the examinations after the completion of their training are conducted batch-wise. Hence, in this case also, the examination to the applicants and others who were sent in the first batch was conducted on 5.6.82, while the examinations for those who were sent in the later batches including R3 to R12 were conducted on 2.9.82 and later.

5. It is stated for R1 and R2 that as all of them were selected at one and the same time, those who were sent for training at different batches were treated as one batch for determining the merit position on the basis of the marks obtained in the examinations that were held after completion of their training. But the plea for the applicants is, that it is not just and proper to compare the merit on the basis of the marks obtained at different examinations.

6. It may be noted that even one mark will make a difference in regard to placement. Ofcourse, if all those who have to be considered for placement in seniority list appeared in the same examination, there cannot be any difficulty in comparing the merit for in such a case, they will be given rankings on the ✓

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basis of the marks obtained in the said examination. But, whether such a comparison in regard to the merit can be reasonably made on the basis of the marks obtained when some of them appeared in one examination while others appeared in another examination?

7. It is submitted for R1 and R2 that there is no possibility of conducting one examination for candidates selected in one batch, when it is necessary to send them for training at different batches for unless one passes the examination, he cannot be given independent posting and if a common examination has to be held, those who undergo training in the first batch have to be kept idle till those who complete training in the later batches are also available for appearing in the examination. The further submission for R1 and R2 is, that along the seniority is being determined on the basis of the comparison of the marks obtained in different examinations. But, Shri Krishna Reddy learned counsel for the applicant submitted that in the year 1979, the CPO himself ordered that those who under-went training in later batch have to be placed below those who under-went training in the earlier batch and the seniority amongst those who underwent training in the same batch has to be fixed on the basis of the marks obtained in the examination.

8. The point that arises for consideration is whether it is possible to assess the comparative merit on the basis of the marks obtained when some appeared in one examination while others appeared in another examination though the syllabus may be same.

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The question, that will be set will be naturally different. It is not uncommon that where a candidate appears in two successive examinations, the marks obtained by him in the former, will generally be varying from the marks obtained in the later and in only rare cases, he may secure the equal number of marks in both the papers. When it is so, how it will be proper to compare the relative merit on the basis of marks obtained by some in one examination with the marks obtained by others in another examination. So, we feel that there is force in the contention for the applicants.

9. So, it is just and proper to construe the first limb of para 303(a) as under:

"Whenever the candidates selected in pursuance of particular notification are sent for training in batches by following panel position in the select list, those who were sent in the later batch for training have to be placed below those who were sent for training in the earlier batch. Inter-se seniority of those who were sent in the same batch of training has to be determined on the basis of the marks secured in the examination that is held after the training".

10. Hence, the impugned order No.P/E/612/IOW/Vol.IV dt.29.4.92 of RI is liable to be set aside. The seniority of the applicants herein has to be fixed on the basis of the principle laid down in this order and accordingly, the seniority list as on 31.1.1989 in respect of Inspector of Works Gr.III in SCRly which was published on 7.3.1989

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has to be revised and if later seniority lists are published, they too, have to be accordingly revised.

11. OA is ordered accordingly. No costs. //

*M E*

(R. RANGARAJAN)  
Member (Admn)

*Neelam*  
(V. NEELADRI RAO)  
Vice Chairman

Dated: The 20th September, 1995

Dictated in the Open Court

*Ambr* - (08)  
Deputy Registrar (J) CC

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To

1. The Chief Personnel Officer, SC Rly, Railnilayam, Secunderabad.
2. The Chief Engineer, SC Rly, Railnilayam, Secunderabad.
3. One copy to Mr. P. Krishna Reddy, Advocate, CAT. Hyd.
4. One copy to Mr. V. Bhimannam SC for Rlys, CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One copy to D.R. (J) CAT. Hyd.
7. Copy to All Reporters as per standard list of CAT. Hyd.
8. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRIRAO  
VICE CHAIRMAN

AND

THE HON'BLE MR.R.RANGARAJAN :M(A)

DATED: 20-9-1995

ORDER/JUDGMENT

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

in

O.A.No. 962/92

T.A.No.

(W.P.No. )

Admitted and Interim directions  
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

p.v.m.

