

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDL.BENCH AT
HYDERABAD

C.A.No.1051 of 1992

Between:

V. Ranga Reddy and Others

.. **Applicants**

A n d

Chief Personnel Officer &
two others.

.. Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS 1 AND 2

I, A. N. Reddy S/o. A. Gal Reddy aged 32 years,
Occupation: Govt. Service, R/o. Secunderabaddo hereby
solemnly affirm and state as follows:

1. I am the Senior Personnel Officer in the Office of the 1st respondent herein and dealing with the subject matter of the case, as such I am well acquainted with the facts of the case. I am filing this counter affidavit on behalf of respondents 1 and 2 as I am ^{authorized} to do so. The material averments in the O.A. are denied save those that are expressly admitted herein. The applicants are put to strict proof of all such averments that are not specifically admitted herein.

2. In reply to the various averments in the O A Para by Para, the respondents 1 and 2 submit as follows:-

a) It is submitted that all the three applicants and the 3rd Respondent were empanelled for the post of Apprentice Sr.D'Man Elec. in Scale Rs.425-700 (RS) on S.C. Railway vide Railway Service Commission letters No.RSC/SC/57 dated 6.1.83 in which the applicants were placed above the third Respondent as per the merit order.

1128

b) All the 3 applicants joined as Apprentices on 13.5.83, 29.4.83 and 2.5.83 respectively and on completion of 2 years of specified training period the 1 & 2 applicants were subjected to the qualifying test on 13.5.85 and the third applicant on 2.6.85. They were not qualified in the qualifying test for posting them against the working posts and therefore their training period was extended for 3 more months. They were again subjected for qualifying test on 1.8.85 and found suitable. Therefore, they were posted against the working posts on regular basis vide CPO/SC O.O.No.39/EL/85 Dt.23.8.85 and working w.e.f. 26.8.1985.

c) The third Respondent, who has joined as a Apprentice Sr.D'Man on 14.5.83 could pass the suitability test on 27.5.85 and he was posted against the working post on 27.5.85 and joined on 22.7.85.

d) The applicants have represented to place them above, Sri Alfred Vijaya Kumar, Sl.No.9, who was senior to them and not passed the qualifying test on completion of 2 years, but passed only after extending his training period at a later date and who has joined the working post on 22.1.86. Similarly the third Respondent has also represented for revision of seniority to place him at serial number-9 based on his joining the working post. The contention of the Applicants that the date of entry into the working post of respondent No.3 is 5.8.85 is not correct, since he has factually joined on 22.7.85.

e) The date of entry of the 3rd respondent was originally taken as 14.5.85 from the date of his completion of two years apprenticeship. But subsequently this has been rectified on the

representation, considering the date of entry as 22.7.85 from the date of joining the working post. Hence, placing the third Respondent at a higher place than the Applicants is correct and in accordance with rules.

The instructions circulated under serial Circular No.4/84 are not applicable in these cases of the applicants, since it is a clarification issued in respect of direct recruitment of supervisors in Grade Rs.425-700 (RS) and artisans in Grade 260-400 (RS) in connection with assignment of seniority. The instructions issued under S/C No.4/84 are not applicable to the drawing office cadre, to which the applicants belong.

f) It is stated that the applicants are not covered by Para 303. Extract of the rule No.303 under Chapter-III of Indian Railway Establishment Manual Vol.I is appended below:-

"The seniority of the candidates recruited through the Railway Service Commission 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 before being posted against working post.
- b) Candidates who do not have to undergo any training the seniority should be determined on the basis of merit order assigned by the Railway Service Commission or other recruiting authority."

g) The claim of the applicants that their seniority governed by paragraph 303 (b) of the Chapter-III of Railway Establishment Manual is not correct. It appears that the applicants have misconstrued the position by quoting.

Para 303 (b) of IREM 1989 edition. At the relevant time, IREM 1968 edition was prevailing. Para 303 (b) of the IREM 1989 is not applicable to the Applicants, as the same was not in force at the relevant time.

h) Nowhere it is stated that the instruction issued under S/C No.4/84 are applicable to drawing office cadre. The Applicants have already been replied vide letter dated 18.10.91 that their seniority was fixed based on the instructions contained under Para-302, 303(a) and 306 of IREM Chapter-III of 1968. Extract of the said Paras is enclosed.

i) In this connection, it is also stated that the Applicants were adjudged unsuitable at the end of 2 years of their training by the competent authority and they were found suitable at the end of their extended period of training. Hence, they cannot have any claim over the third Respondent, who was subjected to the qualifying test on completion of his two years training and found suitable in the first attempt itself.

j) Drawing staff of all the Departments viz. Electrical, Engineering, Mechanical, Signal and Telecommunication are given training only in the respective Administrative open line offices in the Drawing Section itself. Hence, there is no need to have a separate training institution for the purpose of training the Draftsman Categories.

Q.H.S.

GEN. LAW OFFICER,
COMPT. & CTR. RAILW.
RECD. NO. 2312

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S. M. S.
Sr. Per.
S.C.R. S.

...5...

k) In the above circumstances, the seniority list of SDM in Scale Rs.1400-2300 (SRP) circulated under letter No.P(EL)612/Seniority DO dated 25.6.91 is in accordance with the Rules and the request of the applicants to alter or correct the seniority list is untenable.

For the above said reasons, it is submitted that there is no merit in the OA and it is prayed that the Hon'ble Tribunal be pleased to dismiss the application with costs, and pass such other order or orders as this Hon'ble Tribunal deems fit in the circumstances of the case.

*Acctd
23/9/93*
D E P O N E N T.

Sorn and signed on this the
23rd day of September, 1993
at Secunderabad and signed
before me:

प्र. रामिल अधिकारी
प. म. र. सिक्किंगद
Sr. Personnel Officer
S.C.R. S-c. 112001

[Signature]
ASST. LAW OFFICER
SOUTH CENTRAL RAIL
SECUNDERABAD

In the Central Governmental
Tribunal, Hyderabad Bench,
Hyderabad.

O.A. no. 1051 of 1992



Counter affidavit filed
on behalf of Respondents.

Filed by:

D. Francis Paul,
S.C. for Resp.

~~Exhibit~~

Address:

D. FRANCIS PAUL, B.A.B.L.I.R.T.B.,
Law Officer, S.C. for Resp. (Rejd.)

ADVOCEE
H.NO. 12-5-188/4, ROAD NO. 2,
Vijayapuri, South, Beguda,
SECUNDERABAD - 500 017.

S.S
12/10/92