

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD.

C.A.NO. 1063/92

DATE OF JUDGMENT: 18-8-95

BETWEEN:

Gedda Eswar Rao.

and

1. The Union of India, rep. by General Manager,
South Eastern Railway, Garden Reach,
Calcutta.
2. Divisional Railway Manager, S.E.Rly,
Waltair.

Applicant

Respondents.



COUNSEL FOR THE APPLICANT: SHRI N. Rammohan Rao

COUNSEL FOR THE RESPONDENTS: SHRI C. Venkatamalla Reddy, SC for Rlys
S/o Addha 6666.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R. R. NG. RAJAN, MEMBER (ADMN.)

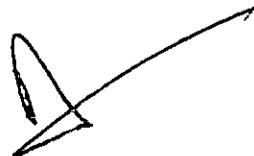
JUDGMENT

I as per Hon'ble Sri R.Rengarajan, Member(Administrative) ¶

Heard Sri N.Rama Mohan Rao, learned counsel for the applicant and Sri C.V.Malla Reddy, learned Standing Counsel for the respondents.

2. The applicant herein who belongs to Scheduled Tribe community joined Railway as Shed Khalasi at Waltair on 13.10.1964. He studied upto 12th Class and he was selected for the post of Ticket Collector and was promoted to that category of Ticket Collector on 12.5.1971. He further earned his/promotion in the category of Ticket Checking staff and was subsequently promoted to the category of Chief Travelling Ticket Inspector in the scale of pay of Rs.550-750 from 5.7.1985. He was fitted in that grade with retrospective effect from 1.1.1984 against the restructured posts. On 23.8.1986, he was promoted as adhoc Chief Ticket Inspector, Vizianagaram in the grade of RS.700-900(RS)/2000-3200 (RSRP) (Annexure-A.1).

3. In 1987, a selection was notified to be conducted for filling up 4 vacancies of Chief Ticket Inspector (CTI) on regular basis and as the post of CTI is a selection post eligible candidates in the ratio of 1:3 were called. There were 4 vacancies to be filled up in that selection of which 2 for unreserved community (UR); one for S.C. community; and one post for ST community. The list of eligible candidates called for that selections in the order of seniority is at Annexure-A.2. The first 6 candidates in that list are from UR community. Candidates



5. In the year 1992 another selection for the post of CTI was held. In that test only 9 Unreserved (UR) candidates are to be placed in the panel to fill up the existing and anticipated vacancies. The applicant was called for supplementary selection held on 5-12-1992 by notification dt. 20.11.1992 (Annexure-A.7). However, he submitted a representation dt. 24.11.1992 (Annex.A.8) to the Chief Personnel Officer, South Eastern Railway Garden Reach, Calcutta requesting him to declare the results of his selection and include his name in the part provisional panel published in Feb., 1988 without asking him to appear for the supplementary selection on 5.12.1992.

6. This OA was filed on 1.12.1992 "for declaration that the action of the respondents in proposing to subject the applicant to the process of selection for the purpose of regular promotion to the post of Chief Ticket Inspector once again on 5.12.1992 as improper and illegal and to refrain the respondents from proceeding any further in that regard and for a further direction to the respondents to regularise his services as CT¹ forthwith."

7. An interim order was passed in this OA dt.3.12.1992 "leaving it open to the applicant whether or not to appear for the test due to be held on 5.12.1992. However, it is said in the interim order that the result of the applicant be kept in a sealed cover till further orders in the event of his appearing in the test".

at Sl.No.7, 8 & 10 belongs to SC community; and the applicant herein who is at Sl.No.9 belongs to S.T. community. The first candidate Sri P.J.Mohan Rao was working on adhoc basis as C.T.I. at that time and the applicant herein ^{also} was working as ADhoc CTI. A provisional panel was issued on 8.2.1988 placing 3 persons as three in qualified on the said panel. Out of this panel two are from UR community and Sri P.S.R.Murthy who was at Sl.No.3 in that panel was from SC community. There is a footnote to this panel which reads as follows:-

"Results of one staff is withheld due to pendency of a SPE/Vigilance case against him."

It is the case of the applicant that because of the footnote, his ~~name~~ name was not included in the panel though he had qualified in that selection. It is the further submission of the applicant that he was the sole ST candidate who was subjected to the process of selection on 7.12.1987 and as the panel consisted of two OC names and one S.C. name, the 4th slot in that panel should be filled by him but his name was not included on the alleged reason that there is a SPE/Vigilance case pending against him.

4. Another selection was conducted for the post of CTI in the year 1989 through proceedings of R-2 dated 14.12.1989. 6 candidates were subjected to selection on the said occasion out of which two are SCs; one ST and 3 Unreserved (UR) candidates (Annexure-A.4). The applicant's name was not in the list called for selection. The applicant avers that he was not called for selection presumably because of the fact that he was already selected in the previous selection held on 7.12.1987.

10. It is further stated for the respondents that "during the review made in respect of promotions effected to reserved community candidates i.e. SC & ST as per communal rosters prepared in this regard, it was revealed that the percentage of quota provided for ST candidates in the category of Chief Ticket Inspector in the scale of Rs.2000-3200 (RSRP) was fulfilled on or before the date of review i.e. 22.2.1985 to the extent of 7.5% and thus the applicant will not come within the purview of the communal roster meant for ST candidates in the category for regularisation of his services as CTI in the scale of Rs.2000-3200 (RSRP) even if the Vigilance case pending against him is cleared at this juncture. Therefore, the respondents Railway administration gave the applicant an opportunity to seek for promotion by attending the selection as general candidate along with other eligible candidates."

11. The respondents further aver that the applicant who is presently working on adhoc basis as Chief Ticket Inspector in the scale of Rs.2000-3200 (RSRP) will continue as such till a ST vacancy becomes available in the category of Chief Ticket Inspector in the scale of Rs.2000-3200 (RSRP) within the prescribed percentage of ST quota i.e. 7.5% of sanctioned strength of the category.

12. The question now arises whether the issue of notification dt. 26.11.1987 indicating to form a panel of 2 UR; 1 SC and 1 ST against existing and anticipated vacancies is in order or not? The applicant herein is at Sl.No.9 in the notification called for selection against ST quota. The provisional panel published on the basis of the above said notification consists of 3 employees,

8. The respondents in their counter affidavit submitted that the applicant was subjected to the selection for the post of Chief Ticket Inspector (CTI) in the scale of Rs.2000-3200 (RSRP) in the year 1987 in terms of the instructions ~~xxxxxxxx~~ to examine the Scheduled Tribe community candidates on relaxed standard examination as per Establishment Serial Circular No.239/70 (Annex. R-1). They also admit that since a vigilance case was pending against him, the result of the applicant was not published in terms of Establishment Serial Circular No.311/71 (Annexure-R.2) and the same was expressly stated as foot-note of the proceedings No.TPY/324/P.I dt. 8.2.1988 (Annexure R-3) which is also the same as Annexure A.3) ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~. It is further stated by the respondents that Vigilance Case registered against the applicant as mentioned above is still pending and the applicant is not cleared of the same so far.

9. The respondents further state that the applicant had become eligible for promotion on his turn as per general seniority to the post of Chief Ticket Inspector in the scale of Rs.2000-3200 (RSRP) and he was called for the selection held on 5.12.1992. It is the case of the respondents that in case the applicant had appeared for the selection held in the year 1992 and declared as qualified on the relaxed standard of exam. he could have got the benefit of regular promotion and seniority against UR vacancy along with other incumbents empanelled in that selection subject to the condition that the Vigilance case pending against the applicant is cleared by then.

against this 12th point that this UR point of 12 was filled by a ST candidate against carryforward ST roster point No.4 and that entry has been signed by some officials.

16. Though point No.13 is an UR point, it was filled by one Sri P.Subba Rao an ST candidate on 3.12.85 probably due to general seniority in his turn though he is an ST candidate.

17. The next ST point occurred at point No.17 and this point was carried forward and filled on 10.2.1986 at Roster point No.18, which is an UR point, by one Sri K.S.N. Rao who belongs to ST community. Thus, it can be seen that there is no carryforward ST point, as both the ST roster points at 4 and 17 had been duly filled by ST candidates by 10.2.1986.

18. The applicant herein was promoted as CTI in the grade of Rs.2000-3200 on adhoc basis on 12.8.1986 and this adhoc promotion must be against adhoc ST roster point. This is evident as it is clearly marked as 19(A) in the roster extract to show that this is an adhoc promotion against ST roster point for such adhoc promotion. Though it is noted as "Against Roster Point 17" in the remarks columnx of the roster against this point, the same has been scored off as the ST roster point 17 had already been consumed by an ST candidate at roster point No.18.

19. Hence, the statement of the respondents that review held on 22.2.1985 had clearly revealed that the ST candidates to the extent of 7.5% had already been filled upto roster point No.18, has to be taken as correct as

2 from OC and one from SC. The results of 4th vacancy was withheld because of pendency of SPE/Vigilance case against one of the staff who appeared for the selection. The claim of the applicant is that the withheld staff to be empanelled is none else, but himself and he has to be empanelled against the ST quota as notified in proceedings dt. 26.11.1987.

13. The respondents in their reply have stated that the review conducted on 22.12.1985 reveal that the ST candidates to the extent of 7.5% had already been filled in the category of CTI in the scale of Rs.2000-3200 and hence the notification dt. 26.11.1987 indicating one slot for ST is not correct. The above fact has to be checked only from the roster register. To examine whether there is any ST roster point to be filled against notified vacancies for that selection itself or against a carry-forward ST roster point, we called for the concerned roster from the respondents.

14. The learned Standing Counsel produced a xerox copy of the roster followed for the post of CTI in the grade of Rs.2000-3200 (RSRP).

15. From the extract of the roster, it is seen that "14 posts of CTI were decentralised vide Chief Personnel Officer, South Eastern Railway Memorandum No.P/4.3/COM/Chanel/ III dt. 27.7.1984". A perusal of the above extract roster indicates that the 4th point is "ST roster point" but that point was filled by a candidate belonging to UR community. Hence, point No.4 viz. the ST roster point was carried forward and filled at point No.12 by one Sri B.T.Rao on 3.12.1985 who is an ST candidate. It is noted in col.No.10

against him, he cannot get empanelled in that panel as there is no ST point to be filled in that selection and the applicant also is not eligible to be considered against general seniority quota. He became eligible to be considered for general seniority quota only after that selection for which panel was issued on 8.2.1988. This point has been made clear by the respondents in their counter and as this is not controverted by the applicant, the same has to be held as correct.

15. In view of what is stated above, the applicant's claim that he should be included in the panel issued on 8.2.1988 is not established. He has to appear for the subsequent selection for the post of Chief Ticket Inspector in the scale of Rs.2000-3200. Eventhough he was called to appear in the subsequent selection held in the year 1992 i.e. on 5.12.1992, he did not appear for the selection and hence he cannot be empanelled in that selection. As he has come up for selection on general seniority after the 1987 selection for which the empanelment list published on 8.2.1988, he has to be considered for selection in future both against general quota and also against ST roster point if there is such point.

16. In the facts and circumstances of the case, there is no merit in this OA and hence, the OA is liable to be dismissed. Accordingly we do so. No costs.

Sd/-
H R R N
M(A)

CERTIFIED TO BE TRUE COPY
Date..... 23/8/93
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

Sd/-
MUNIR
VC

the 4th point and 17th point (ST roster points) have already been filled by ST candidates at roster point Nos. 13 & 18 respectively. Though, the respondents state that percentage of 7.5% in respect of ST had been fulfilled as on 22.2.1985 the roster reveals that the above percentage was fulfilled by 10.2.1986. However, this will not have any effect for the selections held in the year 1987 as on the date of issue of notification dt. 26.11.1987 there will be no need to fill up the carryforward ST roster points. As only 4 candidates are to be kept in the panel for which notification was issued on 26.11.1987 there will be no ST candidate to fill up those 4 vacancies ^{as per notification} and only 3 UR and 1 SC had to be empanelled. Hence, the statement of the respondents that the notification dt. 26.11.1987 showing the number of vacancies to be filled as two UR; and SC and one ST is incorrect and it should be only 3 UR; and one SC has to be accepted as correct. The next four (4) vacancies from roster point No.20A were filled by 3 UR candidates and one SC candidate. Out of the four filled from Roster point No.20A to 22, 20A is filled on adhoc basis by Sri P.J.Mohan Rao who was already working on adhoc basis and his name was not found in the panel published on 8.2.88. Roster point No.20 and 21 were filled by UR candidates empanelled on 8.2.1988 and the point No.22 which is SC roster point was filled by Sri P.S.R.Murthy, who is an SC candidate and whose name finds a place in the panel published on 8.2.1988.

20. From the above analysis, it is clear that the claim of the applicant that he should have been appointed against ST point on the basis of the selection notified on 26.11.1987 and his name has to be included in the panel on 8.2.1988 is not tenable. Even, if his name is withheld for inclusion in the panel dt. 8.2.1988 because of pending SPEYigilance case

To

1. The General Manager, S.E.Rly,
Union of India, Garden Reach, Calcutta.
2. The Divisional Railway Manager, S.E.Rly,
Waltair.
3. One copy to Mr.N.Rammohan Rao, Advocate, CAT.Hyd.
4. One copy to Mr.C.Venkata malla Reddy, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
- ~~6. One spare copy.~~

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