

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA No.326/92.

Dt. of Order : 5-10-93.

Modh. Omer Jamal

....Applicant

Vs.

1. The Chief Personnel Officer,
SC Railway, Sec'bad.
2. Sr.Divisional Personnel Officer (BG),
SC Railway, Sec'bad.
3. Sr.Divisional Engineer (Co-ordination),
(BG) SC Railway, Sec'bad.
4. Asst.Engineer, SC Railway,
BIDAR, Karnataka State.

....Respondents

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Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri D.Gopal Rao, SC for Rlys

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CORAM:

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

THE HON'BLE SHRI P.T.THIRUVENGADAM : MEMBER (A)

.....
(Order of the Divn. Bench passed by
Hon'ble Shri P.T.Thiruvengadam, Member (A)).

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The applicant was originally appointed on
26-7-58 as Temporary Kalasi and confirmed as Laskar

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.. 2 ..

Gr. 'D' on 14-10-61. He was regularly promoted to grade of Rs.105-135 as Asst. Time Keeper on 1-4-64 and further promoted as Junior Clerk/ ^{Time Keeper} on adhoc basis on 14-7-72. While continuing as Junior Clerk on adhoc basis he was further promoted to the post of Sr.Clerk on 24-2-78 on adhoc basis. The applicant was reverted to the post of Junior Clerk in August, 1985, in pursuance of Railway Board's instructions that double adhoc promotion should not be permitted. So from August, 1985, he was continuing as Junior Clerk on adhoc basis.

2. A test was prescribed as per rules for promotion to the post of Junior Clerk from the lower cadres. Guidelines were issued on 14-4-88 to the effect that as a special case and as one time ~~measure~~ exception adhoc clerks working in Construction who had completed six years service as on 1-1-1986 need not be subjected to selection for filling-up the posts of Junior Clerk on regular basis. Then some of the Junior Clerks working on adhoc basis in Open time filed O.A.345/89 on the file of this Bench praying for dispensing with the test for them also for their regularisation in the cadre of Junior Clerk. The Original Application No.345/89 was allowed on 8-2-90 with the following direction :-

.. 3 ..

"In the result the application is allowed and the Respondents are directed to regularise the services of the applicants without holding any test as in the case of adhoc clerks working in the Construction Organisation".

3. It was implemented with regard to the applicants in that O.A. only. Notification dt.13-12-91 was issued by the D.R.M., Sec'bad, inviting applications from eligible employees for framing a panel of Junior Clerks. In response to this the applicant submitted his application for the above selection. The applicant however did not appear for the examination which was held on 10-4-92 but filed this O.A. on 16-4-92 praying for a direction to the Respondents to regularise his services as Junior Clerk from the date of his appointment to the post and give him seniority from the said date for all purposes.

4. The applicant has relied on the orders passed in OA 345/89 in support of the relief claimed in this O.A. The Respondents contend that as the applicant applied for appearing for the test in pursuance of notification dt.13-12-91 and when he had not chosen to appear for the said test he cannot be granted the relief claimed. But it is not a case where the applicant actually appeared for the test and then failed.

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An employee who had chosen to appear for the test in pursuance of the notification issued can be estopped from claiming a relief that the test should not be held for him also. But the applicant had not appeared for the test. We may not accept the plea of estoppel raised by the Respondents. The applicant compleated six years of service as on 1-1-1986. The test ^{has} have to be dispensed with just as it was dispensed with in regard to the applicants in OA 345/89 and his regularisation in the category of Junior Clerk had to be considered as per the directions given in OA 345/89.

5. The Original Application is ordered accordingly. No costs.

P. J. *[Signature]*
(P.T. THIRUVENGADAM)
Member (A)

[Signature]
(V.NEELADRI RAO)
Vice-Chairman

Dated: 5th October, 1993.
Dictated in Open Court.

[Signature]
Deputy Registrar (J)

To avl/

1. The Chief Personnel Officer, S.C.Rly, Secunderabad.
2. The Sr.Divisional Personnel Officer (BG) S.C.Rly, Secunderabad.
3. The Sr.Divisional Engineer (Co-ordination) (BG) S.C.Rly, Sec'bad.
4. The Assistant Engineer, S.C.Rly, Bidar, Karnataka State.
5. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
6. One copy to Mr.D.Gopal Rao, SC for Rlys CAT.Hyd.
7. One copy to Library CAT.Hyd.
8. One spare copy.

pvm

*Encl'd
P.C.G.*

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 5 - 10 - 1993

ORDER/JUDGMENT:

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

in

O.A. No.

326/92

T.A. No.

(W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

