

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No.829/93

Date of Decision: 25.3.1997

BETWEEN:

L.E. Barton

.. Applicant

AND

1. Union of India represented by
General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad

2. Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad.

3. to the post of U.S. Gr.II in
the office of the Chief Operating
Superintendent (Power) S.C.Ray.,
Secunderabad. rep. by its chairman.

4. Sri K. Mallikarjuna, Rao

5. Smt. G.N.V. Seshamma .. Respondents

Counsel for the Applicant: Mr. G. Ramachandra Rao

Counsel for the Respondents: Mr. N.R. Devaraj

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

JUDGEMENT

(PEM HON'BLE SRI R. RANGARAJAN: MEMBER(ADMN.))

Heard Sri G. Ramachandra Rao, learned counsel for the applicant and Sri N.R. Devaraj learned CGSC for respondents.

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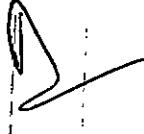
while
The applicant in this OA ~~was~~ working as Head Clerk had written test for the post of Office Superintendent Gr.II in response to notification No.P.605/TP/SEL/Vol.III Dt.27.2.92 (Annexure-I) to the OA. The applicant was not found successful in the examination. At the time of filing this OA i.e. on 13.7.93 the applicant was 57 years old. That would mean that the applicant would have retired from service in the year 1994. Hence, if the applicant succeeds in this OA he cannot appear for the selection for the post of OS Gr.II as that post is a selection post and filled by a positive act of selection by means of written test followed by Viva-voce. If at all he can be given any relief, it can be only when a vacancy against a restructured post arises. Under the restructured scheme the post is to be filled by means of modified selection and the applicant can be posted if he is found otherwise qualified for that modified selection. The applicant following the modified selection had already been promoted with effect from 1.3.1993 against the restructured post. The applicant if he succeeds in this OA can get promotion from an earlier date which will not be far away from 1.3.1993. Hence in our opinion for the reasons stated above the application has to be dismissed as infructuous. However in view of the fact that the applicant himself has not come forward to withdraw this OA, and in view of the circumstances explained as above, we are disposing of this OA on merits. However the disposal of this case on merits is only an academic exercise.

The first contention of the applicant is that the notification does not indicate the number to be empanelled. But we find from the notification Dt.27.2.92 ~~It is stated~~ that it was proposed to form a panel of 2 employees of OC community and hence correctly 6 candidates were called for the selection in accordance with the rules. Hence this contention has no merits.

The second contention is that the Selection Committee is not formed validly. There are standing instructions in regard to formation of selection committee on the basis of the grade for which the selection is to be made. We find from the reply that the selection committee has been formed in accordance with the board's instructions in this connection. No rejoinder has been filed to contradict the same. Hence this contention also fails.

The third contention is that proper procedure is not followed by the selection Committee. It is not understood how the applicant knows that proper procedure is not followed. If he is aggrieved by the selection, he should submit in ~~clear~~ unequivocal terms in what way the procedure is violated. In the absence of any such statement we do not find it necessary to go into the ~~details of the~~ contention, ~~discontent~~.

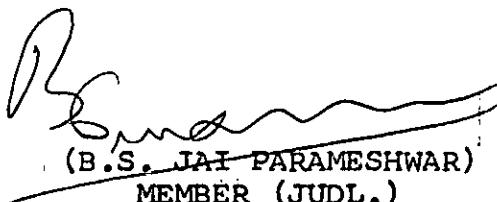
The learned counsel for the respondents submitted ^{and} that the applicant appeared for the selection and gave a blank paper. If he is aggrieved by the notification Dt.27.2.92 he should have challenged the same. Having submitted himself for the examination, he cannot challenge that notification. The application itself was filed on 13.7.97 after/lapse of

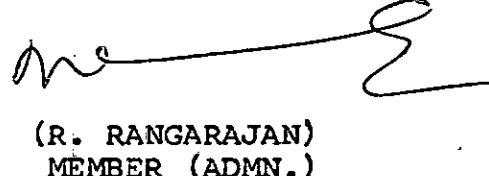


1½ years. Having subjected himself either answering or submitting blank paper, he cannot challenge it now as his discontent. It is stated that the applicant had failed in the selection ^{four} to OS Gr.II 4 times earlier. Hence it stands to reason that the applicant was afraid of facing the selection as he may not be in a position to answer all the questions. But we do not want to ~~have~~ any judgement in this regard. The very fact that he failed in the present examination, he cannot demand as a matter of right ^{for} to the promotion to the post of O.S. Gr.II.

The applicant having been promoted against the restructured post as OS Gr.II, his final settlement dues would have been comparable to that grade. That itself had given him enough relief. In view of what is stated above, we ~~find no substance to challenge the impugned order in this OA.~~ ^{interfere with}

The OA is dismissed as having no merits. No costs.

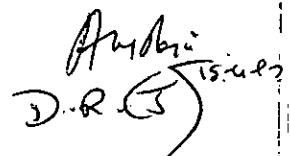

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

Date: 25TH MARCH 1997

Dictated in the open court

KSM


Anubhav
D.R.G. (signature)

*self
28/4/97*

TYPED BY
COMPIRED BY

CHECKED
APPROVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

THE HON'BLE SHRI J.S. JAI PARAMESHWAR:
M(J)

DATED: 25/3/87

ORDER/JUDGEMENT
R.A/C.P/M.A. No.

in
O.A. No. 829/83

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS

YLR

II COURT

