

IN THE CENTRAL ADMINISTRATIVE TRIBUNA: HYDERABAD BENCH
AT HYDERABAD

OA.941/93

dt.12-11-96

Between

A. Srinivasa Rao

: Applicant

and

1. The General Manager
SC Rly., Rail Nilayam
Secunderabad

2. Chief Personnel Officer
SC Rly., Rail Nilayam
Secunderabad

: Respondents.

Counsel for the applicant

: P. Krishna Reddy,
Advocate

Counsel for the respondents

: C. Venkatmalla Reddy
SC for Railways

CORAM

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

HON. MR. B.S. JAI PARAMESHWAR, MEMBER (JUDGE.)

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[Signature]

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Judgement

Oral order (per Mbn. Mr. R. Rangarajan, Member (Admn))

Heard Sri P. Krishna Reddy, for the applicant and Sri C. Venkat Malla Reddy for the respondents.

1. Railway Recruitment Board issued employment notice No.1/90 on 21-1-1990 inviting applications from

Diploma Engineers in Electrical/Mechanical/Electronics for filling up

/ 21 posts of Chargeman in the scale of pay of Rs.1400-2300

(Annexure R-1). This notification does not indicate the number of Diploma holders to be recruited and from each faculty. However, the position was reviewed by the respondent authorities and the Railway Recruitment Board was informed on 12-3-1990 in regard to the break up of hands for each faculty. As per this letter the break up is as follows :

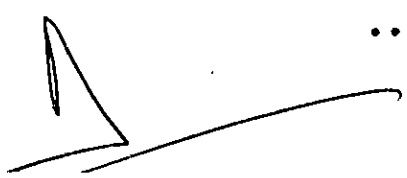
14 from Diploma holders in Mechanical Engineering
11 from Diploma holders in Electrical Engineering
10 from Diploma holders in Electronics Engineering.

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Thus initially indent placed for 21 candidates was also revised to 37. The RRB, Secunderabad, supplied 25 candidates possessing diploma in Mechanical Engg., 7 candidates possessing Diploma in Electrical Engg., and lone candidate possessing Diploma in Electronics Engg., totalling 33 against the indent of 37 as informed to them by letter dated 12-3-1990.

2. The applicant was informed by letter dated 4-3-1991 by RRB, Secunderabad, that his name had been recommended to R-2

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who will in due course offer him appointment provided he is otherwise suitable. The applicant did not receive any offer of appointment from R-2. Hence he issued a lawyer notice dated 5-4-1993 (page 5 of material papers to the OA). The applicant was informed by letter No.P(E)268/TM dated 4-5-93 (Annexure-I) that he stands at unreserved serial No.18 in the ranking of candidates of Mechanical Engineering and that only 16 candidates from the panel has been taken as Chargeman-B against the quota earmarked for Diploma holders in Mechanical Engg. As he was 18th in the list he could not be offered appointment letter.

3. This OA is filed praying for direction to the respondents to appoint the applicant as Chargeman-B (Trackman Civil Engg. Deptt.), South Central Railway, Secunderabad, or in the alternative to appoint him in any other equivalent post for which he is eligible.

4. The main contentions of the learned counsel for the applicant in this case are two fold. They are :

i) The number of posts of Chargeman was increased from 21 to 37 and the break up of the candidates against the discipline wise totalling 37 was informed to the RRB, Secunderabad, only on 12-3-1990 i.e. after the issue of the notification and the applicants applied in response to that notification. Thus, the learned counsel for the applicant submits that increase of the posts or issue of bifurcation of various discipline after the issue of the initial notification is untenable.

ii) In the combined notification for the post of Chargeman for Electrical/Mechanical/Electronics

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there are no bifurcation of posts discipline-wise initially. But bifurcating the vacancies discipline-wise by letter dated 12-3-1990 the applicant was placed in a disadvantageous position which is not called for. If it is not bifurcated he would have been offered the appointment as Chargeman-B as he stands ^{23rd No.} 23 in the combined list and juniors to him have been offered appointment in other disciplines.

5. The only point for consideration in this OA is whether the applicant is prejudiced by increase in the number of vacancies or by the bifurcation of the posts against various disciplines.

6. Even in the first notification though bifurcation against various discipline is not given it clearly states that the requirement of Chargeman totalling 21 is to be apportioned between the Diploma holders of Mechanical, Electrical and Electronics Engineering. From the notification itself it is evident that all the 21 posts cannot be filled by the Diploma holders in Mechanical Engg. ^{alone} The applicant may, in all probability, expect that Mechanical ^{Engg.} Diploma holders to the extent of 50% of the vacancies may be filled against the initial notification for 23 vacancies. This presumption appears to be in order as in final bifurcation, the Diploma holders in Mechanical Engg. got 16 posts against the notified 37 vacancies. Hence, non-bifurcation of the posts allocated to the various disciplines in the initial stage in our opinion in no way prejudice the case of the applicant.

7. The second point is whether the increase in the number has caused harm to the interest of the applicant. By increasing the number the applicant got more chances to be empanelled as compared to the less number of posts earlier advertised. Thus even increase in number will in

no way affect the chances of the applicant for entry into the Railway service if his name has come within the allotted vacancies for Mechanical Diploma holders.

8. Thus, on both the account, we find that the applicant has not made out any case to sustain his contentions. As his rank is 18 and none of the Diploma holders in Mechanical Engg. who was placed below him in the Mechanical Engg. discipline had been appointed, the applicant cannot have any grouse if the offer of appointment is not issued to him.

9. The Apex Court time and again emphasises that a candidate has right for consideration for appointment but not appointment to that post as a matter of right. It is also emphasised by the Apex Court that the Government cannot force to employ candidates beyond their requirement as it involves payment from the public exchequer. In this case the respondents have assessed the need for Diploma holders in Mechanical Engg. as 16 against the number of 37 advertised for recruitment to the post of Chargeman-B. The case of the applicant was considered in the selection process and he was also empanelled at Sl No.18 in the Select list. But when his serial number position is below the requirement of the candidates required to be appointed he cannot demand appointment. Hence, no injustice had been done to the applicant in this connection.

10. The applicant further submitted that one Sri Y. Sudhakar was given alternative appointment from the same panel and such treatment is not meted out to him. Hence, it is a case of indiscrimination.

11. In the reply dated 4-5-1993 (page-1) R-2 had intimated to the learned counsel for the applicant that Y. Sudhakar was occupying senior position in the RRB panel compared to the applicant herein. He was offered appointment

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to the post of Chargeman-B on 10-9-1991 i.e. well before the expiry of the currency of the panel. However, he was not found fit for the post of Chargeman-B on medical grounds. Hence, he was subsequently offered the post of Store keeper Grade II as an alternative appointment as provision existed for that. The contention of discrimination as brought out as above by the applicant can be held valid if Y. Sudhakar is junior to the applicant in the panel or he was offered appointment initially after the expiry of the currency of the panel. But that is not the case here as narrated above. Hence, the applicant cannot allege indiscrimination in this case.


12. In view of what is stated above, we find that this application lacks merit. Hence, it is dismissed. No costs.


(H.S. Jai Parameshwar)
Member (Judl)

12.11.96


(R. Rangarajan)
Member (Admn.)

Dated : November 12, 96
Dictated in Open Court


D.R. (S)

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OA 941/93
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Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD.

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

The Hon'ble Shri ^E B.S. Jai Parameswaran:
M(T)

DATED: 12/11/96

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

in
O.A.NO. 941/93

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

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II COURT

केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
दिल्ली / DESPATCH
- 6 DEC 1996 -
हैदराबाद न्यायपीठ
HYDERABAD BENCH