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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1143/93

Date of Order: 3.12.96

BETWEEN:

K.Bheemareddy

.. Applicant.

AND

1. Railway Board, rep. by its
Secretary, Rail Bhavan,
New Delhi.

2. Chief Personnel Officer,
S.C.Rly., Rail Nilayam,
Secunderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Lakshma Reddy

Counsel for the Respondents

.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

None for the Applicant. Heard Shri N.R.Devraj, learned
standing counsel for the respondents.

2. This OA came up for hearing on 29.11.96. On that day also
was
the learned counsel for the applicant/not present. In view of the
above the OA is disposed of under Rule 15(1) of CAT Procedural
Rules 1985.

3. The name of the applicant finds a place under Sl.No.34 of
the list of employees eligible to appear for Group-B selection
for the post of Assistant Electrical Engineer under 75% quota
of selection issued by letter No. P.GAZ/607/EL/Pt.III, dt. 1.10.91
(A-1). The applicant wrote the examination and he passed in the
written examination. He was called for medical test before

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appearing for the viva-voce as can be seen from letter No.P(GAZ) 607/EL/Pt.III, dt. 10.2.92 (A-2). It is stated that he failed to qualify in the medical test under the appropriate category for posting as Asst.Electrical Engineer by the Medical Superintendent Railway Hospital, Lalaguda, as can be seen from Annexure R-1 enclosed to the reply.

4. In terms of Railway Board's letter No.E(GP)80/2/8, dt.31.10.91 (A-5) the names of the candidates who did not pass the prescribed medical standard should not be included in the panel. It is also stated in the above referred letter that the employees qualifying the selections for promotion to Group-B posts but not passing the prescribed medical standard should not be promoted to Group-B even on adhoc basis. As the applicant failed to qualify in the appropriate medical category for promotion to the post of A.E.E. he was not called for viva-voce even though he passed in the written selection test.

5. Aggrieved by the above he has filed this OA challenging the impugned letter of R-1 No.E(GP)80/2/8, dt. 31.10.91 (A-5) and the consequential non-selection and promotion of the applicant to the post of Group-B as totally arbitrary, illegal and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to promote the applicant to Group-B post i.e. A.E.E. in the identified suitable posts in workshops or Construction or Training Centres by including his name in the panel of 6.3.92, without insisting the passing of medical examination category 'A' technical and with all consequential benefits of seniority, fixation of pay and arrears of pay.

6. The main contention of the applicant in this OA is that he should not have been sent for medical examination before the viva-voce. Even if he had failed in the medical examination he should have been called for viva-voce test and if he qualified in that test and comes within the number to be empanelled for the post of A.E.E. he should be promoted as A.E.E. in the post which does not

require medical standard category 'A'.

7. The respondents have filed a reply. Their main contention is that the posts of A.E.E. whether in workshop, openline, training centres or construction organisation are interchangable and no one can claim to be posted in a particular post. As the post of A.E.E. requires the medical standard 'A' the applicant should be fit enough even to be posted in those posts which require the medical examination category 'A'. As he is liable to be transferred to the other inter-changable category if he fails in appropriate medical category it will not be possible to post him in that post requiring higher medical standards. Hence they submit that there is no irregularity in not empanelling him when he failed in the medical examination. It is also the case of the respondents that by subjecting him to medical examination earlier to the viva-voce no prejudice ^{was} ~~is~~ caused to him as he ^{would} ~~will~~ not qualify in the medical category even after he is empanelled. By subjecting him to medical test before viva-voce, it will enable the administration to empanel one more candidate instead of keeping that slot vacant in the empanelled list if the applicant's name is deleted from the panel if he is subjected to medical test after viva-voce. Thus the applicant had not lost any thing because of the procedure followed in his case in subjecting him to medical test before the conduct of the viva-voce.

8. There is force in the submission of the respondents. When the post of A.E.E. is an inter-changable one the applicant cannot pick and choose a post in which he should be continued indefinitely without transferring him from that post. In our opinion the posts of A.E.E. which do not require the medical standard category 'A' may not be there at all. Even if such posts exists that posts will be too few and one cannot claim to be posted in a particular post. As the applicant prays for seniority also on the basis of the empanelled list he will claim promotion to the higher post on that basis. If so a post in the higher grade also should be found to suit his medical category. That will not be possible. An employee

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who fails in the appropriate medical category cannot claim for promotion. In that view the applicant has not made out a case for the relief as asked for in this OA. As submitted by the learned counsel for the respondents we do not see any infirmity in the selection procedure if the applicant is subjected to the medical test earlier to the viva-voce. Hence we are of the opinion that the impugned letter dt. 31.10.91 (A-5) had been issued taking into account all pros and cons and hence cannot be held to be a letter issued arbitrarily or illegally. Hence the challenge to the letter cannot be upheld.

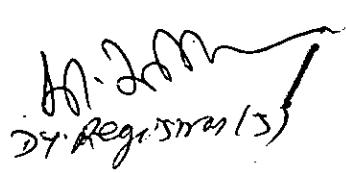
8. In the result, we find no merit in the OA. Hence the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

Dated : 3rd December, 1996

(Dictated in Open Court)


M. J. M.
24/Regd/57/13

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