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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 1003/93.

Dt. of Decision : 19-11-96.

1. N.Krishna Murthy
2. S.Venkatachalapathi
3. K.R.Lakshmana Rao
4. K.Lakshminarayana
5. J.Subrahmanyam
6. K.Kesappa

.. Applicants.

VS

1. The Sr.Divl.Personnel Officer,
SC Rly, Guntakal.
2. The General Manager, Rep.by
the Union of India, SC Rly,
Rail Nilayam, Secunderabad.
3. T.Bheemalingappa
4. K.Devadass
5. D.Venkataramana
6. D.Muniratnam
7. C.Janakiraman
8. M.Purushottam
9. Hridayam
10. K.Krishna Murthy
11. P.Venkataramanaiah
12. P.Narasimhulu
13. B.James Deva Prasad
14. L.E.Visweswara Rao
15. Sk.Abdul Sattar
16. G.Fakruddin
17. K.S.Venkatraman
18. C.S.Kingstone
19. P.S.Devarajan

.. Respondents.

Counsel for the Applicants : Mr. P.Bhaskar

Counsel for the Respondents : Mr. D.Gopala Rao, SC for Rlys.

CORAM:

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

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

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ORDER

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

None for the applicants. None for the respondents.

2. This OA came up for hearing on 08-11-96 when it was ordered to be posted today as on the previous day of hearing also there was no representation from the applicants. In spite of this adjournment the learned counsel for the applicants was not present. Hence the case is decided on the basis of the records available in accordance with rule 15 (1) of the CAT (Procedure) Rule, 1987.

3. There are six applicants in this OA. They are working as Sr.Gangman except applicant No.4 who is working as Sr.Restgiver Gateman. A notification for filling up of the post of Permanent Way Mistry in the scale of Rs.1400-2300/- was issued calling for volunteers vide memorandum No.G.P/608/TV/PWMS/Vol-3 dated 11-9-92 (Annexure-I). The applicants gave their willingness for sitting in PW Mistrys examination in response to the notification. As per the notification the suitability of the candidate shall be decided by conducting written test and viva-voce. Gang staff in the category of Gantman in the scale of pay of Rs-775-1025/- and above with a minimum qualification of 8th standard and above are eligible to opt provided they have rendered 10 years of service including temporary status as casual labour but with minimum five years of regular service as Gangman/Gangmate. Those who qualify in the written test will be called for viva-voce and those who were empanelled should be fit in the medical category A-III. The notification was issued for filling up 20 vacancies of PW Mistrys comprising of 18 OC and 2 ST.

4. The applicants in this OA submit that the PW Mistrys are to be selected from Gang staff comprising of Sr.Gangman/Sr.Stores Watchman/Sr.Gateman, Keyman, Gangmate. They also submit that there is another channel for filling up of the post of PW Mistrys. The other channel consists of Gangman/Gantmate/Sr.Trolleyman. In



the reply it is stated that the post of Trollyman is treated as an ex-cadre post and the Sr.Trollyman will be considered for promotion to the post of Keyman basing on his seniority in the cadre of Sr.Gangman. This would mean that the promotion above by the applicants is not correct and there is only one channel for promotion for the post of PW Mistry as indicated in the reply statement. This is not controverted by the applicants by filing a rejoinder. Hence, it has to be held that the post of PW Mistris are filled only from the lower categories of Gangman, Sr.Gangman/Sr.Stores Watchman Sr.Gateman/Keyman subject to the condition that the volunteers fulfill the other requisite qualifications.

5. The Applicants appeared for the written examination and they were found fit in the written examination and they were called for viva-voce. In the meantime the respondents published a separate list showing 12 candidates who are respondents 3 to 19 in this OA by giving notional seniority marks to appear for viva-voce test. The select panel was published on 15-07-93 vide memorandum No.G/P.608/IV/PWMS/Vol.2 dated 15-07-93 (Annexure-5). In that panel the names of the applicants were not found.

6. The applicants contend that the calling respondents No.3 to 19 for viva-voce by giving them notional seniority marks is irregular and they cannot be empanelled if they do not get the minimum marks of 60% in the written test for appearing for viva-voce.

7. This OA is filed for setting aside the panel dated 15-07-93 (Annexure-5) as arbitrary and discriminatory and for a consequential direction to prepare a fresh panel as per marks in the viva-voce and written examination.

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8. The respondents in their reply have stated that the Railway Board issued instructions ~~gxx~~ for granting notional seniority marks for purpose of calling senior Gang staff for viva-voce test if by addition of the notional seniority mark a candidate gets 60% thereby qualifying for appearing for the viva-voce. The respondents further submit that the notional ~~the candidates~~. Only those who had obtained 60% of the aggregate mark in the written and viva-voce test are empanelled. The limited purpose of giving seniority mark if they do not get 60% in the written examination is to enable the Sr.Gang staff to appear for viva-voce for PW Mistry or otherwise the Sr.Gang staff will put into disadvantage. The respondents further submit that this ~~was~~ ~~done in consultation with the recognised Unions to ensure senior experienced gang staff are not left out and hence there is no~~ ~~arbitrariness~~ in calling these senior gang staff by grant of notional seniority mark for viva-voce test who fulfilled the other condition. No rejoinder has been filed in this connection. The reason given for granting notional seniority mark appears to be reasonable. The Sr.Gang staff who have put in long years of service and have acquired considerable experience in the Permanent way maintenance cannot altogether be neglected if they are not able to come up in the written examination either due to age or due to other reasons. We also find from the reply that the notional seniority mark ranges in narrow compass of 15 to 5. The senior-most Gangman will get 15 marks and junior-most Gangman will get 5 marks as notional seniority mark. It is ascertained that this practice ~~is~~ also adopted in other selections by the railways. In view of the above, we do not find any arbitrariness in calling the senior Gang staff for viva-voce by granting notional seniority marks. The applicants ~~opposing the reasoning~~ have not filed any rejoinder ~~as~~ given above. Probably they

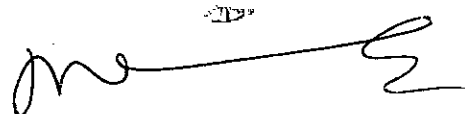
do not have any valid reason to oppose the reasons given by the respondents in the counter affidavit. In view of the above it has to be held that the selection was conducted in accordance with rules and no injustice has been done to the applicants in this OA.

7. In view of what is stated above, we find no merits in this OA and hence the OA is dismissed. No costs.



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

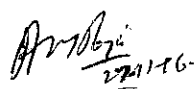
19.11.96



(R. Rangarajan)
Member(Admn.)

Dated : The 19th Nov. 1996.
(Dictated in the Open Court)

spr


D-R (J)

19/12/96

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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)

AND

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

DATED: 19/11/96

ORDER/JUDGEMENT

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

in
O.A. NO. 1003/93

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

