

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.

O.A.No.1247 of 1993

Between:

S.Srinivasa Rao ... Applicant
and

Senior Divisional Personnel Officer,
South Central Railway,
Secunderabad (S.C) Division,
Secunderabad & others. ... Respondent(s)

COUNTER AFFIDAVIT ~~vs.~~ THE RESPONDENTS.

I, T.PRABHAKARAN son of late P.NARAYANA MENON aged 57 years, Occupation: Government Service, do hereby solemnly affirm and state as follows:-

1. That I am working as Senior Divisional Personnel Officer, Secunderabad and Respondent No.1 in the above case and dealing with subject matter of the case, as such I am well acquainted with the facts of the case. I am filling this counter affidavit for myself and on behalf of the Respondent No.2 herein as I have been authorised to do so. The material averments in the O.A. are denied save those that are expressly admitted herein. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder.

2. It is submitted that the applicant was initially appointed as Trade Apprentice on 06-12-66 and after completion of Apprentice period i.e. has been absorbed as Fitter Gr.III during December, 1970. Thereafter he progressed as Fitter Gr.II on 17-8-76 and Fitter Gr.I on 3-9-77. While working as Fitter Gr.I he was promoted to the post of Chargeman 'B' on 3-11-80, on adhoc basis, in the exigencies of services, as there were some vacancies

Please sign
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राज्यक कामेक अधिकारी द.म.र सिक्का
Asst. Personnel Officer, S.C.Rly. SC

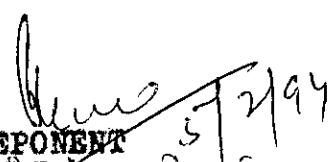
May 25/1994
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द.म.र सिक्का
Sr. Divisional Personnel Officer,
S. C. Railway./SC.

of direct recruitment quota. Here, it is clarified that as per avenue of promotions, the vacancies of Chargeman 'B' are to be filled as under:-

1. 50% by direct recruitment (Railway Recruitment Board Candidates).
2. 25% by selection from rankers (Fitters Gr.I)
3. 25% by selection from serving employees (Fitter Gr.I, Gr.II and Gr.III (LDCE quota) XXXXXXXX and some other categories with requisite qualifications.
4. It is submitted that the employees whose who are selected against the Quota of rankers are promoted to the post of Chargemen 'B' immediately after their empanelment, whereas employees those who are selected against the quota of LDCE are called as Intermediate Apprentice Mechanics and will have to undergo the requisite training for a period of 2 years before they are promoted as Chargeman 'B' in terms of Rule 140 of IREM Vol.I 1989 Edition (Annexure-R.I)
4. It is submitted that while working as adhoc Chargeman 'B' the applicant was declared suitable for the post of Master Craftsman Gr.Rs.425-640/1400-2300 vide Memorandum dt.6-2-87 which the applicant (Annexure -R.2) probably is quoting as empanelment for the post of Chargeman 'B' which is incorrect. Though he was declared suitable and fitted in the past of Master Craftsman, he continued to work as Chargeman 'B' on adhoc basis as both the grades of Master Craftsman and Chargeman 'B' are identical and also the vacancies of Chargeman 'B' were existing. In fact the applicant has appeared for the selection of Chargeman 'B' during 89 against 25% quota of Rankers and as well as 25% quota of LDCE. The applicant was not selected against the quota of Rankers but he got


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Asst. Personnel Officer, S.C.Rly. SC


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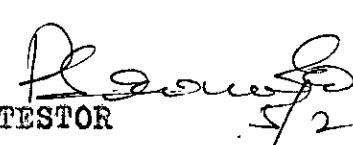
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Sr. Divisional Personnel Officer
S. C. Railway, SC

selected against the quota of LDCE and will have to undergo the requisite training as Intermediate Apprentice Mechanic for a period of 2 years before they are promoted as Charge-man 'B'. Accordingly, the employees selected against quota of LDCE including the applicant were subjected for the requisite training from 24-3-90 but the applicant could not undergo the training because of his ~~returnment~~ secondment to Zimbabwe on 13-01-1990.

5. It is submitted that the applicant, after desecondment from Zimbabwe, reported back at Dsl. Shed/KZJ on 01-01-1993 submitted an application requesting to absorb him in the post of Chargeman 'B' and then send for the requisite training which was not agreed to and he was asked to undergo the training immediately. However, presently he is undergoing the training without any protest.

6. It is submitted that on successful completion of the said training the applicant is entitled for regular promotion and seniority as chargeman 'B' as per his panel position, though his juniors have already been promoted as Chargeman 'B' while he was at Zimbabwe.

7. In reply to para 6 of the O.A. it is submitted that the applicant, while working as Fitter Gr.I Rs.380-560 (RS)/1200-2040(RSRP), was promoted to the post of Chargeman 'B' Gr.Rs.425-700/1400-2300(RSRP), on adhoc basis, on 3-11-80, in the exigencies of services against one of the vacancies of direct recruitment quota and has been continuing as such till he proceeded to Zimbabwe. The statement of the applicant that he was empanelled for the post of Chargeman 'B' during 1989 vide Memorandum No. C/M/Dsl./KZJ/Staff/Master Craftsman/87 dated 6-2-87 is not correct as the said Memorandum is relevant only in


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connection with his suitability for the post of Master Craftsman. However, he was selected for the post of Chargeman 'B' against the 25% quota of LDCE vide Memo. No. CP/535/Dsl./App.Mech. dt. 24-10-89 and as per rules he was directed for the requisite training of Intermediate Apprentice Mechanic for a period of 2 years, commencing from 24-3-90 but he could not undergo the training along with others as he has proceeded to Zimbabwe on 13-1-90. On desecondment from Zimbabwe, he has reported back at Diesel Shed Kazipet on 1-1-93 and he was directed to undergo the requisite training vide Ir. No. CP/535/Dsl./App.Mech. dated 22-6-93 and he is now undergoing the training from 29-6-93. On successful completion of the training the applicant will be entitled for regular promotion as Chargeman 'B' and also entitled to retain his panel position for seniority and further promotions.

8. In reply to para 7 of the O.A., it is submitted that as already submitted supra, his undergoing the requisite training before he is regularly promoted as Chargeman 'B' is a must irrespective of the period he worked as adhoc Chargeman 'B' in terms of Rule 140 of Indian Railway Establishment Manual-I 1989 Edition (Annexure-R). It is also submitted that whatever the period he worked on adhoc promotion does not confer upon him any prescriptive right either for continuance or for regularisation without regular posting after undergoing the promotion training. In this regard a copy of the notification issued calling for the volunteers (in response to which the applicant has volunteered), wherein it was clearly indicated that the employees selected against this quota have to undergo

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Sr. Divisional Personnel Officer
S. C. Railway./SC.

training for a period of 2 years, is made available (Annexure R-II). Thus the action of Administration, in directing the applicant for the requisite training without considering his request to promote him as regular chargeman 'B' despensing with the training period, is quite in order and justified within the frame work of rules.

9. It is submitted that regarding the statement of the applicant that eight juniors to him who were officiating similarly have been regularised ignoring him, it is stated that two junior employees were empanelled along with him against this 25% quota of LDCE and they were regularised only after successful completion of the requisite training. The other six juniors were empanelled against the 25% quota of Rankers (who need not undergo any training) in a subsequent selection held during the year 1992 and they were regularly promoted as Chargeman 'B' which is not at all relevant for comparision.

For the reasons stated above, it is clear that the applicant has not made out any case and there are no merits in the O.A. and this Hon'ble Tribunal may be pleased to dismiss the O.A. with costs in the interest of justice and pass such other order or orders as this Hon'ble Tribunal deem fit proper in the circumstances of the case.

Sworn and signed on this fifth day
of February 1994 at Secunderabad and
signed before me.

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द.प.रे सिक्कार
Sr. Divisional Personnel Officer,
S. C. Railway, SC.

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Asst. Personnel Officer, S.C.Rly. SC

(vi) MECHANICAL AND ELECTRICAL ENGINEERING DEPARTMENTS

(i) APPRENTICE MECHANICS:

140. (1) 75% of the vacancies in the category of Chargeeman 'B' in Scale Rs.1400-2300 (RSRp) in Mech. & Elec. Departments and in the cadre of Draftsmen in these Departments will be filled by induction of Apprentice Mechanics as under:-

- (i) 50% from open market through Railway Recruitment Boards: and
- (ii) 25% from serving Matriculate employees with three years service in skilled grade(s) and below 45 years of age as Intermediate Apprentice Mechanics.

(2) Qualification etc. for direct recruitment are as under:-

- (i) Educational : Diploma in Mechanical/Electrical Engineering.
- (ii) Age: Between 18 and 28 years.
- (iii) Training & Stipend : They will be on training for a period of two years. Stipend Rs.1320-30-1350.

NOTE: The period of training for Intermediate Apprentices also will be two years but they will continue to draw the pay and allowance of the post from which they were selected during the period of training.

...

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1) The Counsel should sign
on the materials under.

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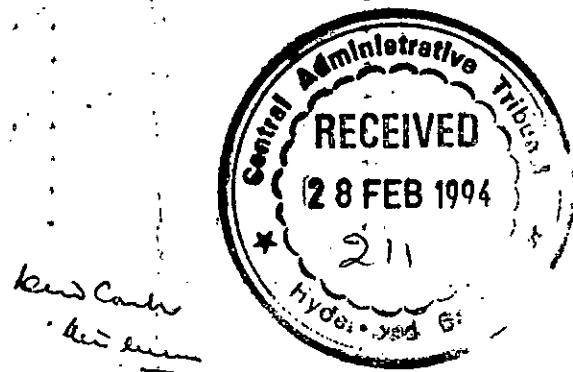
2). Service should be made
on the particular Counsel.

S. Srinivasa Rao - Applicant.

12 days
Reference alone
complied with
V. Raja et al.

28/2/94
F.D.R.S

counter affidavit filed
on behalf of the respondent.



Ke Tumur
28/2/94

2/3/94

May 1994
28/2/94

Filed by
V. Bhimanna
SC for Rlys.