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IN THE CENTRAL ADMINISTRATIVE COUNCIL: HYDERABAD BENCH:
AT HYDERABAD

O.A. NO.1567/93

Date of Decision: 26.11.1996

BETWEEN:

T. Krishnaiah, B. Krishnaiah,
C. Pandian, J.S. Prasad, E. Obulesu,
J. Govindu, H. Noor Ahammed,
K. Nagaraja Rao, J. Govindarajulu, and
B. Sadasiva Reddy

.. Applicants

AND

1. Union of India represented by
The Chairman, Railway Board,
Rafi Marg, New Delhi.

2. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad
3. The Divisional Railway Manager,
South Central Railway, Guntakal
Division, Guntakal.
4. The Divisional Personnel Officer.DRM,
South Central Railway, Guntakal.

.. Respondents

Counsel for the Applicant: MR. G. Bikshapathi

Counsel for the respondents: Mr. N.V. Ramana

CORAM

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

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

JUDGEMENT

(Oral order per Hon'ble R. Rangarajan: Member (ADMN.)

Heard Shri Chakravarty for the applicant and
Shri Rajeswar Rao for the respondents.

There are 10 applicants in this OA. It is stated
that they were engaged in construction organization as casual
labour in semi-skilled/skilled categories. They were absorbed
as Gangmen/Khalasi in the open-line against the 33 1/3% quota
earmarked for construction casual labour on various dates
as indicated in Annexure-1 (Page-12)

The applicants submit that as they worked as casual labour in the semiskilled/skilled categories, they should have been absorbed in the category in which they worked but not as Gangmen in lower category. They further submit that in the year 1994 eleven vacancies were notified for filling semi-skilled posts against 20% quota earmarked for direct recruitment ~~..... have been~~ considered against those vacancies even though they were earlier absorbed as gangmen in Group-D post. But they were not considered for the above ~~said posts~~

This OA is filed praying direction to the respondents to absorb them in the post of Storemen/Store Issuer/Male etc. which posts they were holding in temporary status capacity in the scale of pay of Rs.950-1500. Alternatively ~~the respondents may give~~ a direction to consider them for absorption against 25% vacancies in the skilled category earmarked for direct recruitment in accordance with the manu para and for the connected consequential reliefs.

The first contention of the applicants is that it is irregular to absorb them in Group-D though they were working in skilled/semi-skilled categories as casual labourers. That they were forced to accept the post of Group-D though they were entitled to the higher grade posts. Since they were forced to get absorbed in Grade-D they had no alternative except to submit to the orders of the respondents and thereby they were posted as ^{as} Grade-D staff as Gangmen.

The applicants have not produced or shown any documentary evidence to show that they were forced to accept the Group-D post of Gangman. Mere saying that they were forced to accept the Group-D post of Gangman is not sufficient. Atleast they could have submitted a letter of protest against absorption against Group-D posts when they were posted in Gr.D.

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Having taken no action at the time of absorbtion in Group-D posts, the applicants now cannot turn back and say that they were posted against their wish in Group-D posts. In view of that there is ^{no} reason now to interfere with the orders of absorbing them in Group-D posts.

The applicants submit that they should be posted against the semiskilled post/skilled post instead of posting them in the Group-D. The cadre structure of the railways is so designed as to provide promotional avenue to ^{the} serving staff as well as those from the open market. If all the posts are filled by the casual labour staff who are in the skilled/semi-skilled posts then the promotional avenues for the gangmen and other staff will be sealed. This procedure of filling posts only from open market or from serving semi-skilled/skilled staff is not contemplated in the recruitment rules. But the semi-skilled/skilled casual labour staff have a right to be considered against the 25 % direct recruitment quota provided they apply for the same ^{at} the relevant time and fulfill conditions stipulated in the notification. Even the regular staff can apply against the direct recruitment post if they fulfill the required recruitment rules for such an absorption. No material was placed before us to say that the applicants here had applied when the 11 semiskilled posts were filled against 25% quota in the year 1994. If the applicants had not applied for that they cannot now ask for the reopening of that selection and fit them against those posts.

The applicants' counsel submits that there are rules in regard to absorption of semiskilled/skilled staff in that category. Further, the learned counsel relies on the circular

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No.64/84 Dt.23.4.87 for the claim as above. Even if that circular existed, those circulars cannot be contrary to the recruitment rules. Recruitment rule envisages only 25% vacancies in the skilled category to be filled by direct recruitment. Hence the applicants even now, though they are absorbed as regular gangmen, can apply against that quota if they are otherwise eligible as and when the notification is issued.

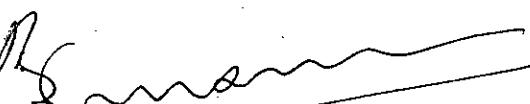
The learned counsel for the applicants submit that even in the 1994 when 11 posts were filled against direct recruitment quota the applicants submitted a representation to the DRM, Guntakal Division to consider their case. But there is no acknowledgement that the said representation was submitted ^{Considering them for} for filling up those posts. If they had submitted their representation for considering them against those posts and if the respondents did not pay heed to that representation then the applicants should have approached this tribunal by filing a MA in this OA for restraining the respondents from finalising that selection. But the applicants did not take any such action. In view of that no direction can be given at this stage even if they had submitted their representation in 1994.

In view of what is stated above we are convinced that the applicants were posted as Gangmen in Group-D posts on their own volition after due screening in accordance with the rules and at no time they took any tangible action to consider their cases for selection to skilled posts against the 25 % quota.

In view of what is stated above, we see no reason to interfere with the refusal orders of the respondents to absorb them in semi-skilled/skilled posts. In the result the

In the result the OA is dismissed as having no merits.

No costs.

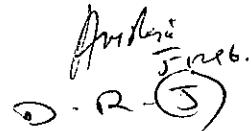

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)


26.11.96

(R. RANGARAJAN)
MEMBER (ADMN.)

Date: 26TH NOVEMBER 1996
Dictated in the open court

KSM


D. R. (3)

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26/11/93
S. V. G. A. 1567/93

1. TYPED BY 2. CHECKED BY
3. COMPARED BY 4. 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: 26/11/93

ORDER/JUDGEMENT

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

D.A. NO. 1567/93 ⁱⁿ

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED ✓

DISMISSED AS WITHDRAWN

ORDERED X REJECTED

NO ORDER AS TO COSTS.

II COURT

YLR

केन्द्रीय प्रशासनिक विधिकरम्
Central Administrative Tribunal
DESPATCH

18 DEC 1993

हृदराबाद व्यायाधीश
HYDERABAD BENCH