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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1603/93

Date of Order: 30.12.93

BETWEEN:

C.Surya Rao

.. Applicant.

A N D

1. Chief Personnel Officer,
S.E.Railway, Calcutta.

2. Divisional Personnel Officer,
S.E.Railway, Visakhapatnam.

3. Senior Divisional Mechanical
Engineer, S.E.Rly.,
Visakhapatnam.

.. Respondents.

Counsel for the Applicant

.. Mr.B.Nageswara Rao

Counsel for the Respondents

.. Mr.C.Venkata Malla Reddy
S.C for Rlys.

HON'BLE Mr.JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

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

18/12/93
9.

J U D G M E N T

{ as per Hon'ble Sri R.Rangarajan, Member(Administrative) }

The applicant was medically unfitted while working in the Railway Protection Force and was given alternate appointment as Call Boy in the grade of Rs.750-945 in the year 1988. The applicant states that, though he was qualified for better appointment in equivalent category in Stores he was absorbed as Call Boy, as there were no vacancies at that time in Stores department. The applicant also represented to the Chief Personnel Officer (R-1) for giving him better position commensurate with his pay in Railway Protection Force.

2. When a notification was given by LOCO Foremen, Visakapatnam calling for applications from the inservice candidates for the post of Diesel Driver Assistant, the applicant also applied for the said post. In pursuance thereof, the applicant was sent for medical and psychology tests wherein he was declared fit for A1 category. However, his claim for the post of Diesel Driver Assistant was rejected by the Chief Personnel Officer, Waltair (R-2) by his Memo No.WPV/MIS dated 10.12.1992 stating that his request for absorption as Diesel Driver Assistant cannot be considered "since Call Boys does not come either under Loco Steam Surplus Staff or under Running Cadre avenue". As his application for the post of Diesel Driver Assistant was rejected, he has filed this O.A. for setting aside the proceedings No.WPV/MIS dt. 10.12.1992 of the 2nd respondent and for consequential direction to appoint him in one of the existing or future vacancies of Diesel Driver Assistant.

3. At the time of hearing, it was ^{admitted} ~~submitted~~ by the learned counsel for the applicant that the applicant does not come

under the category of Loco Steam Surplus staff or under Running Cadre avenue. It was also submitted by the learned counsel for the applicant that the applicant does not possess the qualifications required for direct recruitment as Diesel Driver Assistant. The contention of the applicant is to post him as Diesel Driver Assistant because of the fact that he was medically unfitted and he was not absorbed in an equivalent category/at the time when he was medically unfitted, but in lower category. He also contends that R-1 after considering all aspects directed the other respondents to consider his case for the post of Diesel Driver Assistant.

4. When the applicant is not eligible to be considered for the post of Diesel Driver Assistant either under category of Loco Steam Surplus Staff or under Running cadre avenue, it will not be proper for the authorities to absorb him as Diesel Driver Assistant even if he qualifies in the appropriate medical category. Unless the competent authority relax the rules, the 1st respondent cannot direct the other respondents to consider the case of the applicant for the post of Diesel Driver Assistant. No such relaxation has been produced before us in this case. As the applicant does not possess the required educational qualifications even for the Direct Recruitment as Diesel Driver Assistant. Setting aside the Memo dt. 10.12.1992 of R-2. However, the applicant, if so advised, may submit a suitable representation to R-1 to consider him for suitable post in other departments to an equivalent category which he was holding at the time when he was medically unfitted. R-3 has to take suitable decision if such representation is received by him and dispose off the same in accordance with law.

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5. In the result the O.A. is disposed-of as above at the admission stage itself. No costs.

[Signature]

(R.Rangarajan)
Member (Admn.)

[Signature]

(V.Neeladri Rao)
Vice-Chairman

Dated 30th - 12 - 93

Grh.

[Signature]
Deputy Registrar (Judl.)

Copy to:-

1. Chief Personnel Officer, S.E.Railway, Calcutta.
2. Divisional Personnel Officer, S.E.Railway, Visakhapatnam.
3. Senior Divisional Mechanical Engineer, S.E.Railway, Vijayawada.
4. One copy to Sri. B.Nageswara Rao, advocate, Plot No.7 Asemanghat, Malakpet, Hyd.
5. One copy to Sri. C.V.Malla Reddy, Addl. CGSC, CAT, Hyd.
6. One copy to ~~Library~~ Library, CAT, Hyd.
7. One spare copy.

[Handwritten notes]
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7.3.94

10.1.93
TYPED BY

COMPALED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 30/12/1993

ORDER/JUDGMENT: ✓

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

O.A.No.

in

1603/93

T.A.No.

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

