

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 333/93

Date of Order: 15-4-93.

Between:

1. N.Bhujanga Rao. ✓
2. G.Ramakrishna ✓

.. Applicants. ✓

and

1. Senior Divisional Personnel Officer,  
S.C.Rly, Vijayawada.
2. Divisional Railway Manager, S.C.Rly, Vijayawada.
3. General Manager, S.C.Rly, Railnilayam, Secunderabad.

.. Respondents.

For the Applicants: Mr.Challa Dhananjaya, Advocate

For the Respondents: Mr.D.Francis Paul, SC for Rlys.

CORAM:

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

THE HON'BLE MR.P.T.TIRUVENGADAM : MEMBER(ADMN)

The Tribunal made the following Order:-

Admit the O.A.

Status quo as at 1.00 p.m. today i.e. 15-4-93.

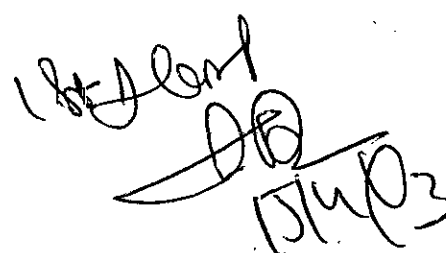
Post it on 26-4-93 for Orders. ✓

  
Deputy Registrar(J)

To

1. The Senior Divisional Personnel Officer, S.C.Rly,
2. The Divisional Railway Manager, S.C.Rly. Vijayawada.
3. The General Manager, S.C.Rly Railnilayam, Secunderabad.
4. One copy to Mr.Ch.Dhananjaya, Advocate, CAT.Hyd.
5. One copy to Mr.D.Francis Paul, SC for Rlys. CAT.Hyd.
6. One spare copy.

pvm

  
15/4/93

*CC today*

TYPED BY \_\_\_\_\_ COMPARED BY \_\_\_\_\_  
CHECKED BY \_\_\_\_\_ APPROVED BY \_\_\_\_\_

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

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

AND

*P.T. Tirumangala*  
THE HON'BLE MR. ~~R.~~ BALASUBRAMANIAN :  
MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR.

DATED: 15 - 4 - 1993

ORDER/JUDGMENT

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

O.A.No. 333/93.

T.A.No. (W.P.No

Admitted and Interim directions  
issued.

Allowed. *list on 26/4/93.*

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

Central Administrative Tribunal  
DESPATCH  
15 APR 1993  
HYDERABAD BENCH.

*15/4/93*

OA-333/93

②

Date	Office Note	Orders
		<p>earlier interim orders passed in all the aforesaid OAs, the respondents shall ensure that any promotion that is made shall abide by the outcome of these OAs. Those who <sup>maybe</sup> are promoted shall be informed of this position in their Promotion Order.</p> <p>22-6-1993.</p> <p>T. S. R. MTCR M(J)</p> <p>d. HABG M(A)</p>
30.6.93	Counter filed by Mr. N. Ramana, 11-12	<p>Sri NV Ramana, counsel for the Respondents states that he has filed counter affidavit today and given copies of the same to the applicant's counsel. Counsel for the applicant requests two weeks time to file rejoinder. Hence list the case for final hearing on 20-7-93.</p> <p>T. S. R. (HTCSR) M(J)</p> <p>d. (HABG) M(A)</p>
20.7.93	Rejoinder filed by Mr. Ch. Samudaya, Adv. on 20/7/93	
20/7/93		<p>Post this on for orders on 21/7/93.</p> <p>HTCSR M(J)</p> <p>HABG M(A)</p>
21/7/93		<p>Post - heard. Post it in orders on 28.7.93.</p> <p>HTCSR M(J)</p> <p>HABG M(A)</p>
		<p>T. S. R. HTCSR M(J)</p> <p>d. HABG M(A)</p>

OA 333/93 (1)

Date	Office Note	Orders
<p>28.7.93</p> <p>Mr. Challa Dhanrajay</p> <p>Mr. N V Ramana, Secretary</p>		<p>Heard on 28.7.93</p> <p>Reviewed 80 orders con</p> <p>HCSR n(1)</p> <p>HABG n(1)</p>
<p>20.8.93</p>		<p>OA is dismissed with</p> <p>no order as to costs. Vide the</p> <p>orders on separate sheets.</p> <p>HCSR n(1)</p> <p>HABG n(1)</p>

ANNEXURE -

List of papers in Original Application No. 08.35/93

LA.107/93.

Sl.No. of papers.	Date of Paps or Date of Filing.	Description Of Paps.
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22 -

20-8-93

Part I  
Origine Judgement

Original & Aterial Paper

Counter

Reply unter.

LA 08291 dt. 28.7.91.

PART - I, PART - II, ERT --- III  
Destroyed.

4  
13/99

② (2)

OA 333/93

Date	Office Note	Orders
26.4.93		<p>Don - before 2nd time on 27.4.93.</p> <p>- Herts MAG - - Herts V.C. Regist.</p>
		<p><b>27-4-93</b></p> <p>Heard learned counsel for the applicant at length.</p> <p>It is seen that the respondents have not yet filed their reply affidavit in any of the OAs (OA.186/93, OA.275/93, OA.130/93, &amp; OA.333/93). They are given the last opportunity to file their counters within six weeks time. They may do so with an advance copy to the opposite parties.</p> <p>As regards interim relief, we find that in OA.275/93 and OA.333/93, the interim order had already been passed on 15-4-1993 to the effect that status-quo as at 1p.m. on 15-4-93 shall be maintained. However, interim relief granted in OA.186/93 is to the effect that any promotion that is going to be made will be subject to the outcome of the said OA. We are to avoid unnecessary confusion in the matter of grant of promotion to the various employees as a result of these two different interim orders there should be a common interim order passed in all these OAs. We accordingly direct that <sup>in</sup> the modification of all the</p>

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

O.A. NO. ~~LA-NG~~

333 / 1993.

N. Bhujanga Rao & another Applicant (S)

Versus

Sr. Dir. Personnel Officer, Secy. Vijayamada Respondent (S)

20th

Date	Office Note	Orders
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13.4.93

Print the name of Mr. Paul for respondents. Heard.

In the circumstances referred to, MA.303/93 in OASR.925/93 is allowed as prayed for.

Register the OA if otherwise in order and list the OA tomorrow i.e.

14.4.93

*[Signature]*  
HPTT  
M(A)

*[Signature]*  
HVNRT  
VC

15-4-93

ADMIT IN OA.

Status Ous as at

~~100~~ 1-00 p.m today i.e. 15.4.93

post it on 26-4-93 for order.

*[Signature]*

*[Signature]*  
HPTT  
M(A)

*[Signature]*  
HVNRT  
VC

*[Handwritten notes and signatures]*

No order as to costs.

Rejected/Ordered.

Dismissed for Default.

Dismissed as Withdrawn.

Dismissed.

Disposed of with directions.

Allowed.

Issued.

Admitted and Interim Directions

(W.P.No.

O.A.No.

T.A.No.

333/93

In

107/93

M.A./R.A./O.A. No.

ORDER/JUDGMENT:

Dated: 28-9-1994.

THE HON'BLE MR. R. RANGARAJAN : MEMBER

AND

MEMBER (JUDL)

THE HON'BLE MR. T. CHANDRASEKHAR REDDY

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

AND

VICE-CHAIRMAN

THE HON'BLE MR. JUSTICE V. NEELADRI RAO

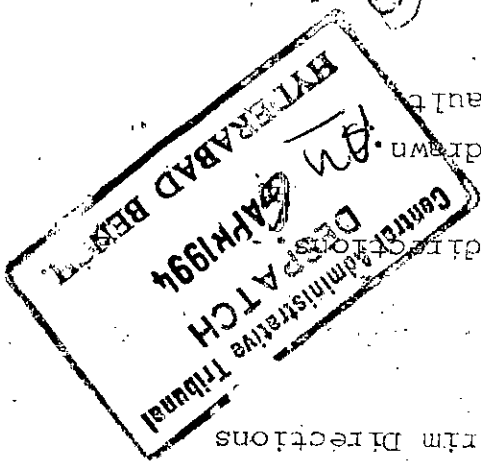
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

APPROVED BY

CHECKED BY

COMPARED BY





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD.

O.A.NO. 333/93

Date of Order: 27-4-93.

Between:

1. N. Bhujanga Rao.

Applicants.

and

South Central Railway,

Vijayawada.

2. Divisional Railway Manager,

S.C. Railway,

3. General Manager,

South Central Railway,

Railnallayam,

Respondents.

For the Respondents: Mr. D. Francis Paul, SC for Rlys.

CORAM:

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

AND

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

The Tribunal made the following Order:-

contd..2.

Heard learned counsel for the applicant at length ✓

It is seen that the respondents have not yet filed their reply affidavit in any of the OAs (O.A.186/93, OA.275/93, O.A.130/93 & OA.333/93). They are given the last opportunity to file their counters within six weeks time. They may do so with an advance copy to the opposite parties. ✓

As regards interim relief, we find that in O.A-275/93 and O.A.333/93, the interim order had already been passed on 15-4-1993 to the effect that status quo as at 1 p.m. on 15-4-93 shall be maintained. However, interim relief granted in O.A.186/93 is to the effect that any promotion that is going to be made will be subject to the outcome of the said OA. We are of the considered view that to avoid unnecessary confusion in the matter of grant of promotion to the various employees as a result of these two different interim orders there should be a common interim order passed in all these OAs. We accordingly direct that in modification of the interim orders passed in the individual OAs, the respondents shall ensure that any promotion that is made shall abide by the outcome of these OAs. Those who may be promoted shall be informed of this position in their promotion order. ✓  
list these cases for orders on 22-6-93.

p.t.o.

22/6/93  
Q.28  
7.9

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-3-

To

1. The Senior Divisional Personnel Officer,  
SouthCentral Railway,  
Vijayawada. //
2. The Divisional Railway Manager,  
S.C.Rly. Vijayawada.
3. The General Manager,  
SouthCentral Railway,  
Railnklayam, Secunderabad. //
4. One copy to Mr.Ch.Dhanamjaya, Advocate, 1-2-234/13/8  
Plot No.8, Aravinda Nagar, Hyd. —
5. One copy to D.Francis Paul, SC for Rlys.CAT.Hyd.
6. One spare copy.

pvm

302 fup  
pvc  
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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

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

AND

THE HON'BLE MR. K. BALASUBRAMANIAN :  
MEMBER (AIMN)

AND

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

DATED: 27 - 4 - 1993

ORDER/JUDGMENT

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

in

O.A.No.

333/93

T.A.No.

(W.P.No

Admitted and Interim directions  
issued.

Allowed. *list on 22/6/93.*

Disposed of with directions

Dismissed as withdrawn.

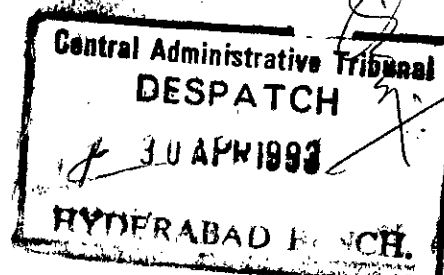
Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm



(42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION No.333/93

DATE OF JUDGEMENT: 25-1-1993

Between

N. Bhujanga Rao

G.Ramakrishna

.. Applicants

and

1. Sr.Divisional Personnel Officer,  
South Central Railway  
Vijayawada

2. Divisional Railway Manager,  
South Central Railway,  
Vijayawada

3. General Manager  
South Central Railway,  
Rail Nilayam, Secunderabad

.. Respondents

Counsel for the Applicants : Mr C. Dhamamjaya

Counsel for the Respondents : Mr NV Ramana, Addl.CGSC

CORAM:

HON'BLE SHRI A.B. GORTHY, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

T. - m. p.

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To

1. The Senior Divisional Personnel Officer,  
S.C.Railway, Vijayawada.
2. The Divisional Railway Manager, S.C.Rly Vijayawada.
3. The General Manager, S.C.Railway,  
Railnilayam, Secunderabad.
4. One copy to Mr.C.Dhananjaya, Advocate, 1-2-234/13/8 Plot No.8  
Aravindanagar, Hyderabad.
5. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

302 Jml  
Page 925  
7/8/73

203

..2..

JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE

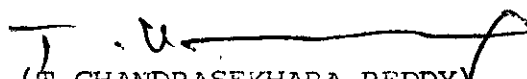
SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

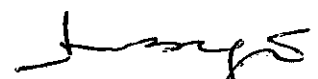
-----  
This application is filed by the applicants herein under Section 19 of the Central Administrative Tribunals Act to set aside the instructions contained in para 1.4, and 4.2 of the Railway Board's letter dated 27.1.1993 as illegal arbitrary and violative of Art. 14 and 16 of the Constitution and direct the respondents to consider the applicants for promotion to the post of HTTE/TCG in the scale of Rs.1400-2300 on the basis of the written test/viva-voce conducted on 21.11.92 and 25.2.93 respectively and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. Counter is filed by the respondents opposing this OA.

3. We have heard Mr C. Dhanamjaya, Counsel for the applicants and Mr NV Ramana, Standing Counsel for the Respondents.

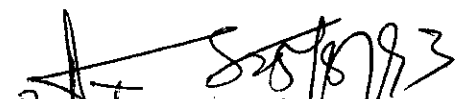
4. OA 275/93 is filed by certain similarly placed applicants for the same relief as prayed for by the applicants herein. OA 275/93 is dismissed today for the reasons mentioned therein. As the cause of action and relief prayed for by the applicants herein are one and the same as ~~xxx~~ of the applicants in OA 275/93, OA 333/93 filed by the applicants herein also is dismissed.

  
(T. CHANDRASEKHARA REDDY)  
Member(Judl.)

  
(A.B. GORNHI)  
Member(Admn)

Dated: 26-11 1993

mv1

  
Deputy Registrar (J)

203/93

TYPED BY  
CHECKED BY

COMPARED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

MEMBER(JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 20-8-1993

~~ORDER~~ JUDGMENT:

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

in

O.A.No. 333/93

T.A.No. (W.P.)

Admitted and Interim directions  
issued.

Disposed of with directions

Dismissed

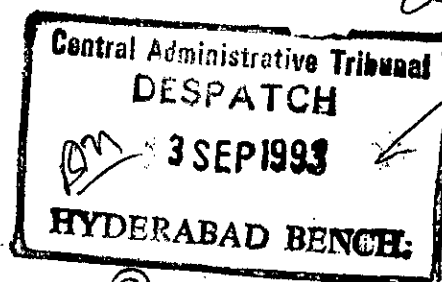
Dismissed as withdrawn

Dismissed for default.

~~Rejected~~ Ordered

No order as to costs.

pvm





(2)

RP-107/93

Date	Office Note	Orders
19/11/93		<p>On behalf of the respondent a request is made for 10 days time to file a reply to the RP. This request should have been made by the respondent's counsel in the previous occasion itself when it was listed for hearing. Any way we grant 10 days time to file a reply with an advance copy to the Applicant's counsel. List case for orders on 14/12/93 on that day the respondent keep relevant record and perusal if it becomes necessary.</p> <p>T. C. N. HTCSR M(J)</p> <p>HABG M(A)</p> <p>Adjourned to 21-12-93.</p> <p>T. C. N. HTCSR M(J)</p> <p>HABG</p>
15-12-93	filed by Mr. N. V. Ramana, SC for Rlys on 14/12/93	

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

~~Office Note No.~~ RP No. 107/93 in OA No. 333/1993

N. Bujanga Rao & another Applicant (S)

Versus

& Dir. Personnel Officer, Secy, Sec'cy & 20th Respondent (S)

Date	Office Note	Orders
27.10.93		<p>As per request on behalf of applicants counsel letter in RP on 29.10.93</p> <p>HTCSR M(1)</p> <p>HTCSR M(1)</p>
29.10.93		<p>As per request on behalf of applicants counsel letter on 4.11.93</p> <p>HTCSR M(1)</p> <p>HTCSR M(1)</p>
4-11-93		<p>List it for final hearing on 19-11-93.</p> <p>HTCSR M(1)</p> <p>HABG</p>

RP. 107/93.

Date	Office Note	Orders
<p><u>20/12/93</u></p>	<p>MA 907/93 in RPSK 300/93 in OA 275/93</p>	<p>Int. the MA. 907/93 in RPSK. 300/93 in OA. 275/93 for further orders along with RP. 107/93 in OA. 330/93. as <del>at</del> these matters are interconnected at 2.15 pm today i.e. 22.12.93.</p> <p>T. S. P. ✓ HTCSR HABG</p> <hr/> <p>Adjourned to 30.12.93 on your ...</p> <p>HTCSR HABG M(T) BFO MCA</p> <p>Adjourned to 18.1.94. <del>in the meantime.</del></p> <p>T. S. P. HTCSR MCD ABG MCA</p>

17.1.94

RR. 107/93 SOA 333/93

①

Date	Office Note	Orders
<p>19.1.94</p> <p>Rec. Y. Suryanarayana</p> <p>Mess. G. V. Subbarao</p> <hr/> <p>N. V. Lakshmana</p>		<p>Heard both sides - orders</p> <p>Reserved (CAU)</p> <p>✓</p> <p>HABT</p> <p>MA</p> <p>HTCR</p> <p>MTJ</p>
<p>28.2.94</p>		<p>RP dismissed - vide</p> <p>orders in separate sheet -</p> <p>no COT</p> <p>T. V. K.</p> <p>HTCR</p> <p>MTJ</p> <p>2</p> <p>HABT</p> <p>MTJ</p>

8. On 11.11.97 P. J. ... RLYS.

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10. 07.1150/92 P.S. Murphy

11. 04.76/93 S. Navabuljala

TELcom.

11/11. 07.77/93 DD.K&TOSHWARAO

• SYM

12. 07. 182/93

NN, Rao

• RLYS.

Λουθηρία

• ΣΥΝΤΑΞΗ

14.

Off. 232/93

M. E. B. S. Valma

Min. of Personnel

• GT

04-2887-93

DST, Prasad

• Telcom.

• 97.

04. 341/93

RP, Rao

Defence

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02. 39. 93

Ue Evan Lal

Defence

RP 107/93

333/93

118 (193)

1990 S.C. 101 (Para 26) km

1992 P 914. 133

1983 S.C. 848, 852

1983 S.C. 1143

1986 S.C. 455, 1233

1974 S.C. 555 (588 Para 85 + 86)

1977 S.C. 548 Para 29

1957

1989 S.C. 139 Para 6

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

---

R.P.No.107/93

in

O.A.No.333/93

Date of Decision: 28-7- 94

Between

1. N. Bhujanga Rao

2. G. Ramakrishna

.. Petitioners

and

1. Sr.Divisional Personnel Officer,  
South Central Railway,  
Vijayawada.

-----  
South Central Railway,  
Vijayawada

South Central Railway  
Rail Nilayam, Secunderabad

.. Respondents

Counsel for the Respondents :: Mr. N.V. Ramana, CGSC ✓

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

[As per Hon'ble Shri T. Chandrasekhara Reddy, Member(J)]

This Bench Petition is filed by the  
Petitioners herein under Sec.22(3)(f) of the Administrative  
Tribunals Act read with Rule 17 of the Central Administra-  
dated 20.8.1993 passed in OA 333/93.

2. Facts so far necessary to adjudicate this RP  
in brief may be stated as follows:

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T. C. V.

18/8/94

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3. OA 333/93 was filed by the Review Petitioners herein for a direction to the respondents to consider the review petitioners for promotion to the posts of Head Travelling Ticket Examiner/Train Conductor Guards in the scale of Rs.1400-2300 on the basis of written examination and Viva-voce already conducted by the respondents on 21.11.92 and 15.2.93 respectively and pass such other order or orders as may deem fit and proper in the circumstances of the case.

4. OA 275/93 was filed by one Sri. V. Narasimha Rao along with two others for a direction to the respondents to finalise the selection to the post of Head Travelling Ticket Examiner in the scale of Rs.1400-2300 against the existing vacancies as on 28.2.93 in the Commercial Department and pass such other order or orders as may deem fit and proper in the circumstances of the case.

5. As OA 333/93 and certain other OAs were filed for the very same relief that was sought in OA 275/93<sup>hence,</sup> OA 333/93 and the connected OA-s were disposed of by ~~a~~ Judgements dated 20.8.93. The main Judgement was written in OA 275/93 and OA 333/93 was dismissed for the reasons mentioned in the Judgement dated 20.8.93. The review petitioners aggrieved by the Judgement dated 20.8.93 passed in OA 333/93, have filed the present RP.

ments in OA 333/93 and batch cases. But, as the Judgement was written in OA 275/93 wherein one Sri GV Subba Rao advocate for the applicant had appeared, and his name was mentioned as Advocate for the applicants in the Judgement in OA 275/93.

T. C. n f

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202/93



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⑦ One of the grounds taken by the Review Petitioners in this RP is, that the Judgement should have been <sup>Advocate for applicants</sup> written in OA 333/93 and the name of Mr Y. Surayanarayana/ should have been mentioned in the Judgement. As OA 333/93 was identical in all respects to OA 275/93, and as the judgement written in OA 275/93 was followed in OA 333/93, the applicants are not put to any prejudice. Ofcourse, main judgement ought to have been written in OA 333/93. But, we may point out we did not in not writing Judgement in OA333/93 as Mr Y. Suryanarayana, Senior Counsel, as already pointed out,

⑧ The second ground taken by the Review Petitioners is that the following Judgements were cited during the course of arguments and the same were not taken into account apparent on this record.

1. AIR 1969 SC 118 Page 123
2. AIR 1980 SC 101 Para 28
3. AIR 1992 P&H Page 133
4. AIR 1983 SC 868 and 852 Para 8
6. AIR 1990 SC 405 and 1233
7. AIR 1974 SC 555 at Page 585 Paras 85 & 86
9. AIR 1989 SC 139 Para 6

We had as a matter of fact, considered in our Judgement all the points which we had noted during arguments, and the relevant Supreme Court decisions that had been noted at the time of hearing. Whatever

petitioners in this RP, we now proceed to consider all the above judgements. Before considering the above

it may be necessary to state certain facts.

3/2/83

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90 As regards the first citation relied by the learned counsel for the Review Petitioners i.e. AIR 1969 SC 118 BS Vadera Vs Union of India, we had held in our Judgement (Main Judgement as already pointed out written in OA 275/93) that the decision does not advance the case of the review petitioners.

12. The second citation relied by the petitioners is AIR 1990 SC 101 Bal Kishan Vs Delhi Administration at Para 28. ~~On~~ This Judgement cited by the counsel for the review petitioners concerns only two paras. Nevertheless, we have gone through the entire judgement. In the said Judgement it is laid down as follows:

○

"In service, there could be only one norm for to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from this principle will have demoralising effect in service apart from being contrary to Art.16(1) of the Constitution."

T. C. R. P.  
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SEAN 7/1

9. The Review Petitioners herein are working as Travelling Ticket Examiners in the Commercial Department under the Control of Divisional Railway Manager, Vijayawada in the pay scale of Rs.1200-2040/-. The next avenue for promotion to the applicants is Head Travelling Ticket Examiner/Train Conductor Guards in the scale of Rs.1400-2300. To fill up the posts of HTTEs, a selection was notified for form a panel of HTTEs in the Vijayawada Division and the written examination for the same was held on 29.11.92 and 9.1.93. Viva-Voce Test for those who qualified in the written exam was held in the office of the Divisional Railway Manager, Vijayawada on 15.2.93. The review petitioners who qualified in the written examination attended the said test on 15.2.93. Some of the eligible candidates could not appear in the said written examination. The respondents did not finalise the panel. At that time, the Railway Board restructured Group 'C' and 'D' cadres in Indian Railways vide their proceedings dated 27.1.93 directing that all selections, where final panel could not be published as on 1.3.1993, are to be abandoned and the vacancies existing on 1.3.93 and vacancies arising out of restructuring scheme are to be filled up as per the scheme. The selection was envisaged therein. As the selection of the review petitioners for the post of HTTEs/TCGs was abandoned in view of the Railway Board's letter dated 27.1.1993, the review petitioner had filed OA 333/93 for necessary relief(s).

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As could be seen from the Judgement, the Supreme Court had been dealing with regard to the confirmation of promoted persons, belong to the same cadre. The observations therein absolutely have no relevance to the facts of this case.

11. The third decision which the learned counsel for the review petitioners relies is 1992 AIR 1992 P&H Page 133 Sanjeev Kumar Gupta Vs Kurukshetra University.

who appears in any examination, will be governed ~~by~~ only by the rules which are operative <sup>at</sup> that time and not by ~~any subsequently amended rules.~~ ~~said anything contra~~ in our Judgement. As a matter of fact,

Vs Srinivasa Rao wherein it was held that vacancies which occurred prior to amended rules, would be governed by old rules and not by new rules. ~~But,~~ even though the applicants were governed by the old rules prior to the restructuring policy came into force, we had held that the applicant did not have a right to compel the respondents to select and appoint them to the said post of HTTE/TCGL-1. So the said decision AIR 1992 P&H 133 does not apply to the facts of this case.

12. The fourth decision which the counsel for the review petitioner relies is 1983 SC 852 Para 8. Even though it is contended by the Review Petitioners that the said Judgement is not considered by the Bench, ~~as already pointed out,~~ there is a reference in our Judgement in OA275/93 at Para 15. We had held in our Judgement

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that the decision in AIR 1983 SC 852 has no application to the facts of this case and <sup>does not</sup> advance the case of the review petitioners. We see no grounds to differ from the stand which we had already taken.

14. The fifth decision relied by the learned counsel for the review petitioners is AIR 1983 SC 1143 AA Calton Vs Director of Education and another. This decision also had been <sup>referred to</sup> cited in our Judgement in para 16 and had ~~xxx~~ indicated the reasons for not applying <sup>we</sup> of the said decision to the facts of this case.

15. The sixth decision which the counsel for the review petitioner relies is AIR 1990 SC 405 P.Mahendran

~~vs State of Karnataka~~ At page 406 it is held as follows:

".....It is true that a candidate does not get any right to the post by merely <sup>making an application for the post</sup> is created in his favour for being considered conditions of the advertisement and the existing recruitment rules. If a candidate applies for a post in response to an advertisement issued by Public Service Commission, in accordance with recruitment rules, he acquires a right to be considered for selection in accordance with the ~~then existing rules~~ by amendment of any Rule unless the amending Rule is retrospective in nature. In the instant case, the Commission has acted in accordance with the then existing rules and there is no dispute that the appellants were eligible for appointment, ~~their selection was not in violation~~ of the recruitment rules. Therefore, setting aside the select list prepared by the Commission would not be proper.

<sup>it was a case where</sup> In the above case, the Supreme Court <sup>was</sup> dealing with a case where the selection process had been completed before the impugned rules came into effect. So, the said decision has no applicability to the facts of this case.

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which were in force on the date of advertisement. Determination of this question, largely depends on the facts of each case having regard to the terms and conditions set out in the advertisement and the relevant rules and orders. Lest there be any confusion, we would ~~xx~~ like to make it clear that a candidate on making application for a post pursuant to an advertisement does not acquire any vested right for selection but if he is eligible and is otherwise qualified in accordance with relevant rules and the terms contained in the advertisement he does acquire a vested right for being considered existed on the date of advertisement. He cannot be deprived of that limited right on the amendment of Rules during the pendency of selection unless the ~~amendment rules are retrospective in nature.~~

(emphasis supplied).

From the above decision it is quite clear that a candidate has no vested right in the matter of appointment.

Hence, the above decision does not advance the case of the review petitioners in any way.

17. The seventh decision which the counsel for the review petitioners relies is AIR 1974 SC 555 Page 585 Paras 85 & 86 EP Royappa Vs State of Tamil Nadu, wherein it is laid down as follows:

"85 ~~The last two grounds.....~~

.....

.....Article 14

action to ensure fairness and equality of treatment. They require that state action must be based on valid relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. Where the operative reason for from the antechamber of the mind is not legitimate and relevant but is extraneous and outside the area

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16. In ~~an~~ another decision in AIR 1990 SC 1233 NT Bevin Katti, etc. Vs Karnataka Public Services Commission which counsel for the review<sup>er</sup> petitioner relies, it is held as follows.

"There is yet another aspect of the question. Where advertisement is issued inviting application for direct recruitment to a category of posts, and the advertisement expressly states that selection shall be made in accordance with the existing Rules or Government orders, and if it further indicates the extent of reservations in favour of various categories, the selection of accordance with the then existing Rules and Government orders. Candidates who apply and undergo written or viva voce test acquire vested right for being considered for selection in accordance with the terms and conditions contained in the advertisement unless, the advertisement itself indicates a contrary intention. Generally, a candidate has right to conditions set out in the advertisement as his right crystallises on the date of publication of advertisement, however he has no absolute right in the matter. If the recruitment is amended retrospectively during the pendency of selection, in that event, selection must be held in accordance with the amended rules. Whether the rules have retrospective effect or not, primarily depends upon the language of the rules and its construction to ascertain the legislative intent. The legislative intent is ascertained either by express provision or by necessary retrospective in nature, the selection must be regulated in accordance with the rules and

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of permissible considerations, it would amount to malafide exercise of power and that is hit by Art.14 and 16. Malafide exercise of power and arbitrariness are different ~~lathal~~ radiations emanating from the same ~~xxxvice~~; in fact, the later comprehends the former. Both are inhibited by Articles 14 and 16.

86. It is also necessary to point out that the ambit and reach of Art. 14 and 16 are not limited to cases where the public servant affected has a right to a post. Even if a public servant is in an officiating position he can complain of violation or unfairly treated or subjected to malafide exercise of power by the State Machine. It is therefore no answer to the charge of infringement of Articles 14 and 16 to say that the petitioner had no right to the post of the Chief Secretary but was merely officiating in that post.....  
....."

So, it is the argument of the learned counsel for the review petitioners that as the Selection process has not been completed, they are discriminated.~~xx xxkx~~

It is also further contended that if the candidates found a place in the select list, they could have been placed higher than the promotees who had failed in the

.....  
referred to the afore said judgement<sup>by the supreme court</sup> in ~~xxxxxx~~ para 14  
of the Judgement<sup>in G.A 27611</sup> we had held as follows:

it is strongly contended on behalf of the applicants herein that due to the revised policy the candidates that had failed in the examination would have a march ~~over~~ on the basis of their seniority as candidates who have appeared for the examination for promotion to the post of HTTE and this involves an encroachment on the fundamental rights guaranteed under Article 14 and 16 of the Constitution

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may point out that every departure from a rule which departure gives certain advantages to one group of civil servants as against another, does not necessarily involve an encroachment of Fundamental rights guaranteed by Art.14 and 16 of the Constitution."

So, in view of our categorical observations in para 14 of our judgement (in OA 275/93), we are unable to agree with the contention of the learned counsel for the review petitioners that the action of the respondents in not finalising the selection offends Art.14 and 16 of the Constitution in view of the special facts and circumstances of the case.

The decision cited by the learned Counsel for the Review Petitioners is AIR 1977 SC 540 Para 29 (Indian Aluminium Cables Vs The Excise and Taxation Officer). This judgement contains only one sentence where the Supreme Court had dealt with Taxation issue in that case. The said decision is not applicable to the facts of this case.

14. The last and the final decision cited by the Counsel for the petitioners in this RP is AIR 1989 SC 139 Para 6 P&T SC/ST Employees' Welfare Association Vs Union of India, wherein, it is held as follows:

"HELD that the deprivation violated the equality clause of the Constitution. Similar advantage was being enjoyed by persons belonging to the SC/ST in other Departments and only the employees of P&T be true that no writ can be issued, ordinarily

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compelling the Government to make reservation under Art.16(4) which is only an enabling clause, the circumstances in which the members belonging to the Scheduled Castes and Schedules Tribes in the posts and Telegraphs Department are deprived of indirectly the advantage of such reservation which they were enjoying earlier while others who are similarly situated in the other departments are allowed to enjoy it make the action of Government discriminatory and invite intervention by the court."

So, It is contended by the learned counsel for the review petitioners, that out of the 8 selections that were made in various cadres in the Division, 5 selection panels were released before 1.3.93 and so there was no ground for the respondents in not finalising the panel of HTTEs and thus the applicants-herein Review Petitioners herein also have got a right for similar benefit that was enjoyed by certain employees of ..... placed before us discloses that as many as 30 selections were abandoned in terms of the Board's letter dated 27.1.93 in the South Central Railway out of which 6 selections were abandoned in Vijayawada Division. Because some selections were made here and there and panels were released, does not confer on the applicants similar right as it is the case of the respondents that they were not in a position to finalise the panel of HTTEs/TCG before 1.3.93. Absolutely, we see no malafides on the part of the respondents in not finalising the said panel and this aspect of the case we have made it clear in the main Judgement. So the said decision AIR 1989 SC 139 is not applicable to the facts of this case, and the review petitioners does not have a right to insist upon the respondents to finalise the selection of HTTEs/TCGs.

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So, none of the decisions that are cited by the learned counsel for the review petitioners advances the case of the review petitioners to show that they have a right for giving a direction to the respondents for completion of selection process and for release of the list of successful candidates.

19. It is vaguely contended by the counsel for the review petitioners that there are malafides on the part of the respondents in not finalising the selection and due to the pressure from the unions that the respondents had not finalised the selection. In this context, it will be pertinent to note a decision reported in AIR 1974 SC 555 at EP Royappa Vs State of Tamil Nadu wherein page 557 it is held as follows:

"The burden of establishing malafides is very heavy on the person who alleges it. The allegations of malafides are often more easily made than proved and the very seriousness of such allegations demands proof of a higher order of credibility."

We do not find any material to prove the malafide on the part of the respondents in not finalising the ~~xxx~~ selection of HTTEs/TCGs. As already indicated, we are not prepared to accept that there are malafides on the part of the respondents in not finalising the selection list. On the other hand if the respondents had ~~finalised~~ hurried with the selection process and had finalised the same in the month of February that would have given scope to attribute malafides to the respondents as the restructuring policy was coming into force with effect from 1.3.1993 and as the letter dated 27.1.1993 of the Railway Board with regard to the restructuring policy had already been issued to the respondents, We see every justification on the part of the respondents in not finalising the selection in the end of Feb., 1993.

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20. ~~Further~~, the review petitioners have contended in the Review Petition that some of the points which their counsel had raised were forgotten and they ~~did not~~ find a place in the Judgement. All the points raised <sup>^</sup> had been considered by the Bench and they have been properly answered. All the decisions that were placed before the Bench and other decisions that were not placed before the Bench ~~xxxx~~ are considered in this order. So, the review petitioners cannot now have any grievance.

21. During the course of hearing this RP, <sup>file</sup> Principal Bench Decision, passed in OA 1814/93, was placed before us. The said decision had been passed in the said OA on 13.9.93 by the CAT Principal Bench (after pronouncement of the Judgement in OA 333/93 by this Bench) which reads as follows:

~~\*(ORAL JUDGEMENT DELIVERED BY HON'BLE  
MR JUSTICE S.K. BHACHAN, VICE-CHAIRMAN)~~

The petitioners are really aggrieved by the communication dated 27.1.1993 issued by the Executive Director, Pay Commission, Railway Board, to the General Managers of All India Railways. In Para 4.2 of the said communication, it is stated that such selections which have not been finalised by 1.3.1993 should be cancelled/abandoned.

2. A written test was held for selection and a date for via-voce was fixed; but via-voce could not take place. Meanwhile, by a stop-gap arrangement, the ~~petitioners~~ are enjoying even now.

3. Thereafter, the impugned communication was issued.

3. The contents of the communication indicates that some policy decision had been taken that future selections should be ~~be~~ withheld for the time being. The reason for doing so is contained in para 4 of the communication. A policy of restructuring has been adopted. It is stated that for the purpose of the

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Servant becomes due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and confidential reports without holding any written or viva-voce test. We do not find any element of arbitrariness in this policy decision. No ground is made out for our interference. The application is dismissed summarily."

In the above cited decision of the CAT Principal Bench, New Delhi, even though written examination seems to have been held prior to the restructuring of the Railway Board letter dated 27.1.1993, the viva-voce test had not been conducted. Such action, on the part of the respondents has been held to be valid by the CAT Principal Bench, New Delhi. But, even though in this case, interviews had been held, we are unable to understand, how the applicants can find fault in not finalising the select list with regard to the interviewed candidates in view of the also views expressed by the CAT Principal Bench. As a matter of fact, the CAT Principal Bench seems to have taken the same view as we had also taken in our judgement.

23. We have not committed any error that is apparent face of on the record in reaching our conclusions in dismissing OA 275/93 and OA 333/93 and batch cases in view of our Judgement in OA 275/93. There is an attempt on the part of the review petitioners to point out some error or the other even though there is none. The review petitioners have gone to the extent of finding error in the Judgement alleging that pleadings in the counter of the respondents are copies in the Judgement. We are unable to understand how the reproduction of

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To

1. The Sr.Divisional Personnel Officer, S.C.Rly, vijayawada.
2. The Divisional Railway Manager, S.C.Railway, vijayawada.
3. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
4. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
5. One copy to Mr.N.v.Ramana, SC for Rlys. CAT.Hyd.
6. One copy to Library, CAT.Hyd.

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13/3/24

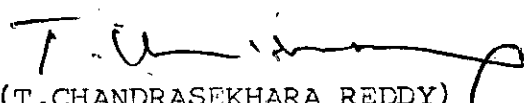
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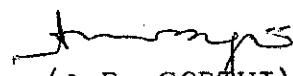
the pleadings in the counter of the respondents at appropriate places in the judgement, would constitute error apparent on the face of the record.

24. Before parting with the RP, we may also cite a recent decision of the Supreme Court reported in 1994(1) SLJ Page 2, Parveen Jindal and others Vs State of Haryana wherein it is held as follows:

".....There were no MALAFIDES on the part of the Government in not filling up the said post of AEEs. Further merely because the appellants appeared at the selection, they did not get any right to compel either the PSC or the Government to select and appoint them. The mere appearance at the selection does not clothe them with the right to selection and appointment."

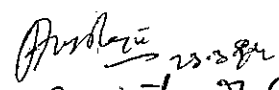
25. The above observations of the Hon'ble Supreme Court is a complete answer to the contentions of the Review Petitioners herein. Absolutely, we see no reasons to review our judgements dated 275/93 and OA 333/93 and batch cases. If the Review Petitioners are really aggrieved by our Judgement, they have certainly got a remedy before Hon'ble Supreme Court of India. RP is dismissed. No orders as to costs.

  
(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

  
(A.B. GORTHI)  
Member(Admn)

Dated: 28-2- 1994

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Deputy Registrar (C)

16/1/94