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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

MA.583/93 &

OA. 374/93

date of decision : 3-8-1993

Between

1. N. Bucheer
2. D. Komuraiah
3. V. Rajamogli
4. Md. Kalababu
5. G. Ayodya
6. K. Laxman
7. P. Yellaiah
8. K. Sanjeeva
9. S. Ravinder
10. T. Rajender
11. S. Prabhakar
12. Syed Sadiq Ali
13. S. Anjaiah
14. M. Mohan
15. S.K. Vali
16. Md. Yaseen
17. Md. Afzalmia
18. M. Chiranjeevi
19. Md. Nawab
20. B. Ramesh
21. K. Bhaskar
22. Ahsan M<sup>o</sup>hamed
23. A. Sammaiah, and
24. S. Nirmala

: Applicants

and

1. Union of India, rep. by  
The Secretary  
Railway Board  
Rail Bhavan  
New Delhi

2. General Manager  
South Central Railway  
Rail Nilayam  
Secunderabad

3. Chief Commercial Supdt.  
SC Railway, Rail Nilayam  
Secunderabad

4. Divisional Railway Manager  
(Personnel)  
SC Railway,  
Secunderabad (BG)  
Secunderabad

: Respondents

15/8/93

(20)

Counsel for the applicants : G.V. Subba Rao, Advocate  
Counsel for the respondents : V. Bhimanna, SC for Railways

CORAM :

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri G.V. Subba Rao, learned counsel for the applicants and Sri V. Bhimanna, learned counsel for the respondents.

2. The applicants herein are commission vendors in the catering unit at Kazipet Railway Station of South Central Railway. This OA was filed praying for a direction to the respondents to absorb the applicants herein as regular employees of the catering units in accordance with the date of registration of the applicants as vendors by declaring that non-absorption of the vendors according to the date of registration <sup>is</sup> ~~as~~ arbitrary, illegal, and unconstitutional and also to direct the respondents to pay them the minimum of the scale on par with the Class IV staff of the catering establishment.

3. D.O. letter No.73-TGIII/639/8/SG dated 16-2-1974 from the Director, Traffic(Commercial), Railway Board, is in regard to absorption of the commission bearers/vendors in various Departmental catering units for absorption in the permanent cadre. When there were frequent representations from the commission bearers/vendors for their regularisation of <sup>their</sup> services, subsequent to the issue of the above d.o.

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(2)

letter dated 16-2-1974, letter No.76-TGIII/639/11 dated 13-12-1976 of Ministry of Railways was addressed to the General Manager of Indian Railways for following the instructions issued in the d.o. letter dated 16-2-1974. When the above letter dated 13-12-1976 was brought to the notice of the Supreme Court at the time of consideration of Writ petition No.6804 and 6805 of 1982 between Saital Singh and another and Union of India & Others, order dated 13-12-1983 was passed by the Supreme Court and the relevant portion therein is as under :

"It is obvious from the above memorandum that the Railway should first absorb all the bearers who are registered in accordance with the memorandum thereafter the vendors who are registered accordingly and that until all the bearers and vendors are accordingly absorb the Railways cannot appoint any persons either as bearers or vendor on permanent basis on Railway service from any other source. In view of the clarification no orders are called for. The petitions are disposed of accordingly. We hope that the government would take steps to absorb all the bearers and vendors as mentioned above as early as possible."

The memorandum referred to therein <sup>is</sup> ~~in~~ letter dated 13-12-1976. In pursuance of the above order of the Supreme Court, the concerned authorities started screening the commission bearers who got themselves registered in accordance with the rules.

4. It is evident from the order dated 13-12-1983 in writ petition No.6804 and 6805 of 1984 filed on the file of Supreme Court, that the commission vendors have to be considered for absorption in the permanent vacancy <sup>ies</sup> after the commission bearers are absorbed <sup>in</sup> ~~for~~ the said posts. As the order of the Supreme Court is silent in regard to the date upto which the bearers/vendors got themselves registered <sup>have to be absorbed</sup>, it is reasonable to hold that all the bearers who got

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themselves registered upto 13-12-1983, the date of the order of the Supreme Court, have to be first considered for absorption and then the commission vendors who got themselves registered upto 13-12-83 have to be considered for absorption. It is evident from DRM (P)/SC letter dated 15-7-93 (Second material paper) filed with MASR.1004/83 that the commission bearers who got themselves registered upto 30-11-1982 were required to attend for screening for absorption. It cannot be stated that the same is not in conformity with the order dated 13-12-<sup>-1983</sup>~~1984~~ of Supreme Court. Hence, MASR.1004/83 had to be rejected.

5. The learned counsel for the applicant had not drawn our attention to any scheme whereby the commission vendors have to be paid wages at the minimum of the scale prior to absorption. On the otherhand the order of the Supreme Court in the Civil Miscellaneous petition No.1670/87 makes it clear that the commission bearers / vendors are entitled to pay in the regular scale from the date of absorption. Hence, the OA in regard to relief for a direction to the respondents to pay them the minimum of the pay scale even before absorption had to be dismissed.

6. There is nothing to indicate that the concerned authority is not going to fix the seniority in accordance with the rules for the purpose of absorption of the commission vendors. As such there is no need to give any direction in regard to this. If in case the concerned authority is not going to follow the rule, for preparation of the seniority list of the commission vendors, the applicants are free to approach this Tribunal by way of MA under Rule 24 of the Procedure Rules.

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7. The seniority list in regard to the commission vendors had to be prepared within six months from the date of receipt of this order or earlier if the list of commission bearers will be exhausted.

8. In the result MA.583/93 is rejected, and the OA is ordered accordingly. No costs.

*P. T. Thiruvengadam*  
(P.T. Thiruvengadam)  
Member(Admn.)

*V. Neeladri Rao*  
(V. Neeladri Rao)  
Vice-Chairman

dated : August 3, 93  
Dictated in the Open Court

*19/8/93*  
Dy. Registrar(Judl.)

Copy to:-

1. The Secretary, Railway Board, Union of India, Rail Bhavan, New Delhi.
2. General Manager, South Central Railway, Rail Nilayam, Sec-bad.
3. Chief Commercial Supdt., SC Railway, Rail Nilayam, Sec-bad.
4. Divisional Railway Manager(Personnel), S.C.Railway, Secunderabad(BG), Secunderabad.
5. One copy to Sri. G.V.Subba Rao, advocate, CAT, Hyd.
6. One copy to Sri. V.Bhimanna, SC For Railways, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

*5th Aug/93*

M.A. 583/93.

O.A. 374/93

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. A. B. GORTHY : MEMBER (A)

AND

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

AND

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

Dated: 3/8/-1993

ORDER/JUDGMENT: \_\_\_\_\_

M.A/R.A/C.A.No. 583/93

in

O.A.No.

374/93

T.A.No.

(W.P.)

Admitted and Interim directions  
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs

