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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.375/93

date of decision : 2-12-94

Between

1. I.R.K. Rao
2. N.V.R. Subramanyam
3. A.K.D.V. Prasad
4. A. Bhagawath Rao
5. B.S. Prasad
6. D.V.S. Narayana

: Applicants

and

1. General Manager
South Eastern Railway
Garden Reach
Calcutta
2. Chief Personnel Officer
S.E. Railways, Garden Reach
Calcutta
3. Divisional Railway Manager(P)
S.E. Railways, Waltair

4. R. Saikumar
5. T. Narendra Kumar
6. M.K. Rao
7. V. Rama Rao
8. K. Rama Rao
9. P. Hemachary
10. P. Shyamala Rao
11. J. Gangadhara Rao
12. M.A. Naidu
13. B.M.S. Prasad
14. A. Venkateswara Rao
15. S. Paul Kennedy
16. S. Appala Raju
17. P. Rama Rao
18. B. Ramachandar Rao
19. N.V. Chandrasekhar
20. B.V.A. Rao
21. K.R.K. Rao
22. A. Appala Raju
23. I.K. Murthy
24. K.N. Appadu
25. Rane Paul

: Respondents

Counsel for the applicants : S. Ramakrishna Rao, Advocate

Counsel for the respondents 1-3 : G.S. Sanghi, SC for Railways
Counsel for the respondents 4-25 : G. Ramachandra Rao, Advocate

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN
HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

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OA 375/93.

Dt. of Order: 2-12-1994.

(Order passed by Hon'ble Justice Shri V.Neeladri Rao,

* * *

These six applicants are working as Electrical Asst.Drivers.

This O.A. was filed praying for a direction "to the Respondents who are covered under para-138(d) placing them above those officials who are not covered under para 137 and 138 but who were promoted retrospectively to those grades in violation of rules and without observing the minimum requisite period of service in each grade; to take away the vested right which has accrued in favour of the duly selected applicants with all the consequential benefits . . .".

2. The seniority list for Asst.Electrical Drivers in Waltair Division, S.E.Rlys as on 31-12-1989 was published. It is stated that later on the seniority list of Asst.Elect.Drivers in Waltair Divn. S.E.Rlys, was not published. The applicants were regularly promoted as Asst.Elect.Drivers in January/February, 1990. Twenty percent of posts of Asst.Elect.Drivers were upgraded with effect from 1-3-1993. On the basis of the seniority list of Asst. Elect.Drivers in Waltair Divn., S.E.Rlys, as on 31-12-1989, a list of Elect.Asst.Drivers to be promoted against the upgraded posts as Sunters and ETs was prepared.

3. It is thus clear that no seniority list was prepared in regard to the cadre of Asst.Elect.Drivers in Waltair Section, SE Rlys, after the applicants were regularly promoted for the

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said post.

4. The promotees from Fireman-II to the post of Asst.

Elect. Drivers filed MA 416/94 praying for permission to come on record in this O.A. as respondents. The same was allowed.

5. The posts of Asst. Elect. Drivers have to be filled-up as follows :-

(a) 40% from Firemen-I with 8th standard minimum educational qualification, if they are below 45 years of age;

(b) 40% from Matriculate Firemen-I with 3 years of continuous service, short fall if any by promotion of Matriculate II Fireman through Departmental Examination and

(c) shortfall if any (a) and (b) above has to be filled by direct recruitment through Railway Recruitment Board and

(d) wherever avenue provided for 20% of vacancies to be filled from amongst Artisan who are atleast 8th standard passed and below 45 years of age (Railway Board letter E(NG)I-/84 PM7/56 dt. 3-11-87) (para-138), 20% have to be filled from Artisans who satisfy the above conditions.

The avenue chart for promotion to the post of Asst. Elect. Drivers provides for promotion from Artisan Gr. IV. The applicants were promoted under the said quota.

5. When seniority list subsequent to the date of promotion of the applicants as Asst. Elect. Drivers is not yet published after their regular promotion (absorption), it is not just and proper for this Tribunal to give any directions to the Respondents as to how the interse seniority in regard to Asst. Elect. Drivers from Fireman-I, Fireman-II and Artisans has to be fixed. The seniority list has to be published once in two years normally. It is not known as to why it is not published subsequent xxxx xxxx xxxx

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to 1989 in regard to Asst.Elect.Drivers in Waltair Divn.

As we have already observed that some of the 20% posts of Asst.Elect.Drivers were up graded as Shunters/ETs/Sr.Asst.Elect.Drivers, it is just and proper to give the following directions to the Respondents.

6. The provisional seniority list of Asst.Elect.Drivers in the Waltair Rlym. S.C.Rlym, as on Diesel Asst./Ist Fireman in the Waltair Divn., S.C.Railways as on 28-2-1993 had to be prepared. Then the objections in regard to the same have to be called for from all the concerned. After considering the objections if any, the final seniority list ^{has} to be prepared.

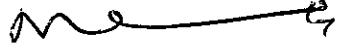
7. It is needless to say that any one aggrieved ~~is~~ with the final seniority list as on 28-2-93, ~~is~~ free to move this Tribunal under section 19 of the A.T.Act, 1985. Till final seniority list is prepared, the provisional seniority list has to be followed for sending the Asst.Electrical Drivers for Drivers Promotional Training. If it is necessary to send Asst.Electrical Drivers for Drivers Promotional Training even before the provisional seniority list is going to be prepared, the date of absorption in the post of Asst.Electrical Drivers/Diesel Asst./Ist Fireman has to be taken as basis for sending them for training.

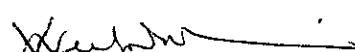
8. If any promotions ^{now} made to the post of Shunters/ETs/Sr.Electrical Drivers on or after 12-4-1993 (the date on which ^{now} this Original Application was filed) ~~is~~ subject to the final seniority list of the Asst.Electrical Drivers/Diesel Asst./

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1st Fireman in Waltair Division, S.C.Rlys, that had to be prepared in pursuance of the orders passed in this U.M. The interim orders dt. 21-2-1994, 29-3-1994 and 28-4-1994 are hereby vacated.

9. Original Application is ordered accordingly. No order as to costs.


(R.RANGARAJAN)
Member (A)


(V.NEELADRI RAO)
Vice-Chairman

Dt. 2nd December, 1994.
Dictated in Open Court.


Deputy Registrar (J) CC

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To

1. The General Manager, S.E.Rly, Garden Reach, Calcutta.
2. The Chief Personnel Officer, S.E.Rlys, Garden Reach, Calcutta.
3. The Divisional Railway Manager (P) S.E.Rlys, Waltair.
4. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr.G.S.Sanghi, SC for Rlys CAT.Hyd.
6. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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15/12/94
13/12/94