

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A. 537/93 & 922/93.

Dt. of Decision : 18-10-94.

1. K. Govinda Rajulu
2. E. Nagabuhsana Rao
3. B. Prasada Reddy
4. B. Parvati Bai
5. B. Gangadhar Rao
6. G. Sadanand
7. S. S. Prabhavati
8. P. V. Satyanarayana
9. P. Manmadha Rao
10. R. Maher Gangadhar
11. I. Sankar Rao

.. Applicants in OA.537/93

1. B. Ramesh
2. P. Thirumala Rao
3. P. S. Venkata Rao
4. K. Padmakumar
5. M. Maheswara Rao
6. S. V. Subrahmanyam
7. K. N. B. Sarma
8. B. N. Achary
9. P. Govinda Rao
10. V. Satyanarayana

.. Applicants in OA.922/93

Vs

1. The General Manager, SE.Rly,  
Garden Reach, Calcutta.
2. The Chief Personnel Officer,  
SE Rly, Garden Reach, Calcutta-43.
3. Divisional Railway Manager (P)  
SE Rly, Waltair, Visakhapatnam-4. .. Respondents in both the  
OAs.

Counsel for the Applicants : Mr. P. B. VIJAYA KUMAR

Counsel for the Respondents : Mr. V. BHIMANNA, Addl.CGSC.

CORAM:

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

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

OAs 537/93 & 922/93

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,  
VICE-CHAIRMAN I

J U D G E M E N T

Heard Shri P.B. Vijaya Kumar, learned  
counsel for the applicant and also Shri V. Bhimanna  
XXXX learned Sr. Standing counsel for the  
Respondents.

2. As the same point arises for consideration  
in both these OAs, they can be conveniently disposed  
of by a common order.

3. In pursuance of notification dated 23-8-90  
(vide Annexure II) issued by Respondent 3 in  
OA 537/93 calling for applications for recruitment  
of 296 candidates to Gr: 'D' category in the scale  
of Rs.750-940 (RPS) as Kalasis in Electrical Loco  
Shed/Diesel Loco Shed/Survey Construction Organisa-  
tion, Waltair, the applicants in both these OAs  
and many others applied for the same in time.  
All these applicants are having the requisite  
qualifications for the said posts and they are  
within the age limit prescribed. The recruitment  
process was not proceeded with, in pursuance of  
the letter dated 23-9-91 from CPO, South Eastern  
Railway. (Annexure R1 to the additional reply).

In para 2.1 of the said letter it is stated that  
"the details of recruitment in Group 'D' categories  
necessary  
considered to be made during the next one year  
(upto 30-9-92) may be sent along with complete  
justification by 3-10-91 so that the same may be  
put up to G.M. for his review, before forwarding  
the same to Railway Board for their consideration.

If any Group 'D' recruitment from open market is in process, the same should be suspended and details included in the aforesaid proposals."

Waltair Division  
The Divl. Railway Manager/submitted a letter dated 9-10-91 to the General Manager seeking permission for filling up 296 posts for which the notification dated 23-8-90 was issued. After receipt of other similar letters from/DRMS, the General Manager, South Eastern Railway submitted D.O. letter dated 24-3-92 to the Railway Board (vide Annexure R2 to the additional reply) seeking permission to fill up atleast 350 posts in Group D categories from the Act Apprentieship passed candidates and Government of India apprentices who had completed training. Then the Board granted permission for filling up all the 350 posts as proposed by the General Manager, South Eastern Railway.

4. Then the General Manager, South Eastern Railway issued notification dated 13-7-92 for filling up 200 posts which include 56 vacancies in Waltair Division. These OAs were filed challenging the said notification by alleging that as notification dated 23-8-90 was already issued for filling up 296 vacancies and as they include 56 vacancies in the Waltair division, it is not just and proper to issue another notification in regard to the very same vacancies also.

5. It may be noted that the notification dated 23-8-90 was not cancelled and it was only suspended pending permission from the Railway Board for proceeding with the direct recruitment. Even though it is stated for the Respondents that 56 vacancies for Waltair division referred to in the notification dated 13-7-92 are newly sanctioned

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posts for Waltair division, no material is placed to substantiate this argument.

6. The next point which arises for consideration is as to whether the candidates who were within the age by the cut off date prescribed in the notification dated 23-8-90 can be permitted to appear for the 56 vacancies notified in the later notification dated 13-7-92 when they crossed the maximum age prescribed under the said notification.

7. On perusal of the letter dated 24-3-92 (vide Annexure R2 to the additional reply) it can be stated that the proposal for filling up vacancies for 350 by direct recruitment posts was made, and the said proposal was accepted by the Railway Board. Hence the sanction that was given by the Railway Board as per letter dated 27-4-92 is only in regard to the existing vacancies and it is not a case of sanction of new posts. Thus in view of the material on record it can be stated that the recruitment proposed as per notification dated 13-7-92 in regard to the 56 vacancies in the Waltair division is in regard to the existing vacancies. When it is not a case of cancellation of notification dated 23-8-90 and when it is only a case of modification of that notification by limiting the number of vacancies from 296 to 56 for Waltair division, it is just and proper to hold that those who applied in pursuance of the first notification, that is the notification dated 23-8-90 issued by the DRM, Waltair division have to be considered in pursuance of the notification dated 13-7-92 by CPO S.E Railway, Calcutta, when they were within the age by the cut off date prescribed under the notification dated 23-8-90 even though they crossed the maximum age by the cut off date prescribed in the notification dated 13-7-92.

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8. It may be noted that the ban for filling up Gr.D posts by direct recruitment was ~~prescribed~~, as surplus candidates were available. But when it was felt that it is just and proper for the efficient and effective running and maintenance of the locomotives, they should induct the fresh candidates with requisite technical qualifications, the proposal was made by the General Manager for filling up some of the existing vacancies by direct recruitment and the same was approved by the Railway Board. It may be further noted that DRM is also a competent authority for recruiting Gr. D staff. Hence even in the fairness for Respondents, it has to be stated that it was not pleaded that the DRM, Waltair division was not a competent authority to issue the notification dated 23-8-90. Anyhow, no material is placed to show for the Respondents that General Manager observed that DRM should not have proceeded with the notification for recruitment of Gr. D in 1990, in view of the ban on the recruitment of Gr. 'D'. As already observed even in the letter dated 23-9-91 of CPO, S.E. Railway, the DRMS were merely requested to suspend the recruitment process and it was not suggested to them to cancel the notifications.

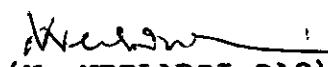
9. Hence in view of the material on record, it has to be held that the 56 vacancies in Waltair Division for which also the notification dated 13-7-92 was issued by the CPO, S.E. Railway, are for which notification was issued by the DRM, Waltair division on 23-8-90. So we hold that those who are eligible and who applied in pursuance of the notification dated 23-8-90 in Waltair division referred to in the notification dated 13-7-92 of the CPO, S.E. Railway, Calcutta.

10. In pursuance of the Interim order dated 1-6-93 in OA 537/93 and 6-8-93 in OA 922/93, the applicants therein were interviewed but their results were not published in view of the direction in the said order.

11. It is stated that even though similar Interim order was passed on 6-8-93 in regard to the applicants in OA 922/93, they were not interviewed as by then the interviews were over.

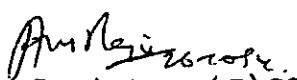
12. In view of our finding that the applicants in both these OAs are to be considered for the 56 vacancies in Waltair division, the applicants in OA 922/93 also have to be interviewed. The results of the applicants in OA 537/93 have to be published and such of those applicants in these OAs who are within the merit have to be appointed. These OAs are disposed of accordingly. This order has to be complied by 31-1-1995. The OAs are ordered accordingly. No costs.

  
(R. RANGARAJAN)  
Member (Admn.)

  
(V. NEELADRI RAO)  
VICE-CHAIRMAN

Dated 18-10-94.  
Open court dictation

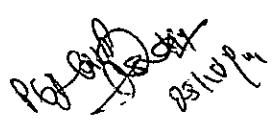
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Deputy Registrar(J)CC.

To

1. The General Manager, S.E.Rly, Garden Reach, Calcutta.
2. The Chief Personnel Officer, S.E.Rly, Garden Reach, Calcutta-43.
3. The Divisional Railway Manager(P) S.E.Rly, Waltair, Visakhapatnam.
4. ~~Two~~ copy to Mr.P.B.Vijayakumar, Advocate, CAT.Hyd.
5. One copy to Mr.V.Bhimanna, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT Hyd.
7. One spare copy.

pvm

  
P. B. Vijayakumar  
25/10/94