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Date: 2--55-1997.

Between:

1. M.D.S. Ramesh.
2. B.Ramesh.
3. K.Ramesh.
4. N.C.Prasad Babu.
5. Dominic D'Silva.
6. P.Murali Krishna.

Applicants.

And

1. Divisional Railway Manager, South Central Railway, Secynderabad.
2. Senior Divisional Personnel Officer, South Secunderabad.
3. Gavin Jude, Diesel Assistant, Office of Loco Foreman, Diesel Rest Room, Railway Platform No.1, South Central Railway, Secunderabad.
4. R.Mukesh Kumar, Diesel Assistant, Office of Loco Foreman, Fueling Point, South Central Railway, Kazipet, Warangal Dt.
5. N.Rama Rao, Diesel Assistant, Office of Loco Foreman, Diesel Rest Room, Railway Platform No.1, S.C.R. Secunderabad.
6. P.Moses Paul Raju, Diesel Assistant, Office of Loco Foreman, Diesel Fueling Point, S.C.R., Kazipet, Warangal Dt.
7. Atul Battacharya, Diesel Assistant, Office of Loco Foreman, Diesel Rest Room, S.C.R. Sec.Bad.
8. Md. Yacub Pasha, Diesel Assistant, Office of Loco Foreman, Diesel Fueling Point, S.C.R., Kazipet, Warangal District.
9. T.N.Braasad, Diesel Assistant, Office of Loco Foreman, Diesel Fueling Point, S.C.R., Kazipet Warangal Dt.
10. P.Potchaiah, Diesel Assistant, Office of Loco Foreman, Diesel Fueling Point, S.C.R., Kazipet Warangal Dt.

Counsel for the applicants: Sri P.M.Srinivas for Sri S.Laxma Reddy.

Counsel for the Respondents:Sri V.Rajeswara Rao for Respondents.

CORAM:

HON'BLE SHRI R. RANGARAJAN, Member (A)

HON'BLE SHRI B.S.JAI PARAMESHWARA, Member(J).

JUDGMENT:

(by/Sri ^{Hon'ble} P. Ranga Rajan, Member (A)).

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O.A.No.780/94.

(as per Hon'ble Shri R. Rangarajan, Member(A))

Date: 2--5--1997

There are six applicants in this O.A. They were recruited as Fireman "A"/^{DSL}BA/Electrical Assistant in the Grade of Rs.950-1500 through the Railway Recruitment Board. ~~They were~~ ^{are} trained and passed the Departmental Examination and after training period they are being posted to the working posts. Both the applicants and the respondents 3 to 10 ~~was~~ belonged to the same batch of recruitment. The applicants underwent the training in the Zonal Training School, Moulali starting ~~from~~ ^{from} 8-7-86. ~~They~~ ^{and} respondents 3 to 10 underwent the training from 20-11-1986. When the seniority list was issued in the grade of Rs.950-1500 ~~published~~ as on 16--9--1993 the unofficial respondents 3 to 10 were shown as seniors to the applicants in the direct recruitment of Firemen Grade "A".

Aggrieved by that, they have filed representations dated 29---7--1993 and 4--2--2-1994 to show their seniority above that of Respondents 3 to 10 as those respondents underwent the training later than the applicants ^{and applicants} joined the posts of Fireman ^{earlier} to them. The respondents No.1 has rejected the representation on the ground that the inter-se seniority between the applicants and Respondents 3 to 10 has to be assigned ~~in~~ ⁱⁿ accordance with para 303(a) of I.R.E.M. ~~but~~ ^{but} ~~not~~ ^{not} ~~as~~ ^{as} ~~per the rule~~ ^{per the rule} the inter-se seniority is decided on the basis of the marks obtained in the Departmental Examination conducted after training.

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Aggrieved by the above, the applicants have filed this O.A., for setting aside the impugned seniority List No. CP/371/ELR dated 15/16-9-1993 published by the 2nd respondent in the cadre of Diesel/Electrical Assistants in the grade of Rs.950-1500 to the extent of showing the respondents Nos., 3 to 10 above the applicants as illegal and violative of Articles 14 and 16 of the Constitution of India and for a consequential direction to the respondents to review the same and place the applicants above the respondent Nos., 3 to 10 with all consequential benefits.

It is stated that Respondents 3 to 10 were ^{in this M} served with Notice through the Departmental Authorities as submitted by the learned counsel for the official respondents. Neither the respondents 3 to 10 nor the Tribunal when the O.A., was taken up for hearing.

The only question for consideration in this

O.A., is:

"Whether Para 303(a) of I.R.E.M., is valid in fixing the inter se seniority between the applicants and Respondent Nos., 3 to 10? "

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The said para reads as follows:

303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:

- (a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances^s, will rank junior to those who had passed the examination in earlier courses."

As per the above para, the candidates who sent for initial training to Training School will rank in seniority in the relevant Grade in the order of merit obtained ~~by~~ at the examination held at the end of the training period before being posted to working posts and those who joined subsequent course for any reason whatsoever and those who passed the examination in subsequent chances will rank junior to those who had passed the examination in the earlier course.

It is an admitted fact that the applicant and

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the respondents 3 to 10 were appointed by the Railway Recruitment Board through the same Recruitment Procedure and all of them were recommended for appointment by the same letter of the Railway Recruitment Board. The capacity of the Training School is being limited, it is not possible to train all the recommended candidates numbering over 300 in this case in one lot. Hence, they were divided into batches and those batches were trained in different periods. The applicants as stated were trained in the earlier batch and the respondents 3 to 10 were trained in a later batch. This would not mean that training imparted to them at different periods be termed as the recruitment in that period or the private respondents were rerecruited by a later batch than that of the applicants. For facility of training, batches were formulated. Hence, it cannot be said that the respondent Nos., 3 to 10 joined the training subsequent to the applicants. It should be construed that the training course is divided in batches only to ensure flexibility and facility for giving the training to the Candidates recommended by the same list by recruiting authorities

It is also an admitted fact that a common examination was conducted for the applicants as well as the private respondents i.e., 3 to 10 after the training is over. The question paper to be answered by both the applicants and the respondents is one and the same.

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The valuation of the papers of both the applicants and the respondents 3 to 10 was done by the same authority. Hence both the applicants and the private respondents were subjected to the same type of treatment in regard to the assessment of their capability and ability after their training period is over. Hence, it has to be held that the marks obtained by them i.e., the applicants and the private respondents in the said common examination for purpose of fixing their inter se seniority in accordance with para 303(a) of I.R.E.M. ^{in the determining factor.} When the seniority was fixed as above on the basis of the marks obtained in the common examination, the applicants cannot say that they should be placed above the Respondent Nos., 3 to 10 if the marks obtained by the applicants in the examination are less than the respondent Nos., 3 to 10. The applicants have not stated that they have obtained more marks than Respondents 3 to 10 in the said examination. It is an admitted fact that the applicants got less marks in the examination which was conducted after the training. // In that view, we find no reason to come to the conclusion that the seniority list issued is irregular or arbitrary. Hence, we do not find any reason to interfere with the seniority list issued by the impugned Memorandum dated 15/16--9--1993 and because of the same reason we also find no reason to


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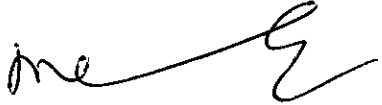
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to interfere with the reply given to the applicants
by the respondents by the impugned letter dated 25-3-1994.

In view of the foregoing discussion,
we find no merit in the application.

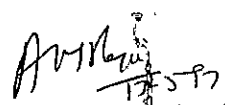
O.A. is dismissed. No costs.


B.S. JAI PARAMESHWAR
MEMBER (J)
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R. RANGARAJAN
MEMBER (A)

Date 2--5--1997.

Dictated in open Court.


Dy. Registrar (Judl.)

SSS.

22/6/97
TYPED BY
COMPOSED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R.R. NGARAJAN : M(A)

AND

THE HON'BLE SHRI S.S. JAI PRAMESHWAR:
M(J)

DATED: 2/5/97

ORDER/JUDGEMENT

Re A/C.P/M.A.No.

in
O.A.No.

7807ay

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED
DISMISSED AS WITHDRAWN
ORDERED/REJECTED
NO ORDER AS TO COSTS

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
वैद्यनाथ/DESPATCH

10 JUN 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH