

(69)

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Miscellaneous Application No.495/96

in

Original Application No.1255/94

Dt. of decision: 18-6-96

Between:

M.A. Haroon

.. Applicant

and

1. The Secretary,
Railway Board, Rail Bhawan,
New Delhi.
2. The General Manager,
S.C. Railway, Secunderabad.
3. The Divl. Railway Manager,
S.C.Railway, Secunderabad.

.. Respondents

Counsel for the applicant : Sri G.V. Subba Rao

**Counsel for the respondents: Sri W. Satyanarayana
for Sri N.R. Devaraj**

CORAM

Hon'ble Mr. Justice M.G.Chaudhari : Vice Chairman *hmc*

Hon'ble Sri H.Rajendra Prasad : Member (A) *Q*
18A

(70)

M.A.No.495/96
in O.A.No.1255/94

JUDGEMENT

(Oral Order as per Hon. Mr.Justice M.G.Chaudhari, V.C.)

The applicant seeks a direction to the respondents to permit him to appear for the written test proposed to be held on 22-6-96 for promotion to the post of Clerk-cum-Typist against the 33-1/3% quota for departmental candidates. This direction is sought in view of the list of candidates published by the Divisional Manager's office, Vijayawada dt.27-5-96 on the subject of selection of Group-D staff for promotion to Group-C services as Office Clerks-cum-Typists against the 33-1/3% quota. The list is prepared showing the eligible candidates separately and ineligible candidates separately. The name of the applicant figured at Sl.No.12 in the list of ineligible cadre. The grievance ✓ therefore is of the applicant ^{therefore} would necessarily relate to inclusion of his name under the ineligible cadre. That question is not the subject matter of the O.A. The O.A. was filed much earlier in October, 1994 and the only relief sought is as follows:

"This Hon'ble Tribunal may please call for the records pertaining to the impugned orders and quash the same by declaring it as arbitrary, illegal, unconstitutional

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violative of Articles 14 and 16 of the Constitution and consequently direct the respondents to permit the applicant to appear for the selection to the post of Clerk-cum-Typist in scale of Rs.950-1500 scheduled to be held on 8-10-1994."

2. The impugned order dt.13-7-94 related to the selection to be made in 1994 and was issued on 13-7-94. The second impugned letter dt.12-9-94 also relates to the selection to be made in 1994 for which the written examination was scheduled to be held on 8-10-94. The substantive relief claimed by the applicant therefore relates to the selection that was being made in the year 1994 for which written examination was scheduled to be held on 8-10-94.

3. By interim order dt.5-10-94 the earlier Division Bench directed that the applicant be permitted to appear for the examination to be conducted on 8-10-94 in pursuance of the letter dt.12-9-94. It was also directed that in case he (qualifying) secured minimum marks in the written test he would be called for viva/interview and also Typewriting Test. However, even after if he was selected the order of appointment was not be issued until further orders. The learned counsel for the applicant states that the applicant was accordingly permitted to appear at the written examination but he failed. The impact of the interim order and permission given to the applicant to appear at the written examination

full

is to exhaust the relief sought in the O.A. and in fact
the O.A. is liable to be dismissed ^{as} and rendered infructuous.

4. The applicant filed M.A. No. 927/94 and it was rejected by the earlier Bench on 19-12-94. The Bench held that there was no ground to interfere with the selections already made and also vacated the interim order not to publish the results. That order ~~does not expunge~~ ^{can not expand} the scope of the relief sought in the O.A. and we do not think that the order is of any material consequences for the O.A.

5. Thus the subject matter of the O.A. which related to selection of 1994 is no longer a ^{live} question. Whatever happened in the subsequent ^{year} orders or in the year 1996 when the applicant has been shown as ineligible cadre is a fresh event and on the frame of the O.A. no grievance in that respect can be entertained in the O.A. Any Miscellaneous Application filed in an O.A. can ^{relate} only to the subject matter of the O.A. and cannot be permitted to introduce fresh cause of action based on subsequent events unrelated to the subject matter and thereby convert the M.A. into a substantive proceeding. The M.A. is therefore misconceived. The learned counsel for the applicant vehemently argued that the respondents have not produced recruitment rules and have not followed them. That contention was raised in the O.A. in connection with the selection of 1994 and the

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substance of the contention was that the respondents were trying to fill up the posts without following the recruitment rules. Precisely for that reason that the applicant was given an opportunity ^{to appear} at the written examination and the ground raised would no longer be relevant for granting the relief on the M.A. which does not arise within the ^{ambit of} O.A. simply because that contention was urged and may be open to be urged in future proceedings.

6. In the result, the M.A. is rejected as misconceived and not maintainable for the reasons already discussed above. We held that the O.A. has been rendered infructuous and accordingly disposed of it of with no order of costs.

(H. Rajendra Prasad)
Member (A)

M. G. Chaudhary
(M.G. Chaudhary)
Vice Chairman

Dt. 18-6-96
(Open Court Dictation)

AR. 27 M 25/6/96
Deputy Registrar (W)

kmv

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 18-6 -1996

~~ORDER/JUDGMENT~~

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

495/96

in

O.A.No. 595/96

125/94

T.A.No.

(W.P.)

Admitted and Interim Directions
issued.

Allowed.

DA
Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

MR
Ordered/Rejected.

No order as to costs.

pvm

