

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.138/94

Date of Order 21.2.1994

BETWEEN:

K.Venugopal Raju

.. Applicant.

A N D

1. The Registrar General and
Census Commissioner of India,
Ministry of Home Affairs,
Govt. of India, 2a, Mansing Roadm
New Delhi.
2. The Director of Census Operations,
A.P., Ministry of Home Affairs,
Govt. of India, Hyderabad. .. Respondents

Counsel for the Applicant

.. Mr.P.Naveen Rao

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

HON'BLE SHRI E.RANGARAJAN : MEMBER (ADMN.)

P. 14

15

O.A.NO.138/94

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri P.Naveen Rao, learned counsel for the applicant and Shri K.Bhaskar Rao, learned standing counsel for the respondents.

2. This OA was filed praying for a declaration that the action of the respondents in not selecting and appointing the applicant as Data Entry Operator Grade-A on the basis of the speed test held on 30.10.1993 in pursuance of the call letter dated 13.10.1993 is arbitrary, discriminatory and contrary to the relevant rules and for a consequential direction to the respondents to appoint the applicant as Data Entry Operator Grade-A in the office of the 2nd respondent on the basis of the marks secured by him in the speed test held on 30.10.1993. The facts which are relevant and material for consideration of this OA are briefly as under:-

A speed test is conducted for selection of the Data Entry Operator Grade-A from among the candidates sponsored by the Hyderabad and Ranga Reddy Employment Exchange areas for the posts in the twin cities ^{and} in the Ranga Reddy District. The speed test conducted for those coming from Hyderabad Employment Exchange ^{area} is different from the speed test conducted ^{-ed for} by those coming from Ranga Reddy Employment Exchange area. The minimum mark prescribed is 80%.

3. It is also stated that there were 63 posts of Data Entry Operators for which selections were made. It ^{further} is also stated that the retrenched employees of the Census

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Department were also considered for the above posts and for them the minimum marks prescribed is 60%. It is submitted that 23 out of the retrenched employees got 60% or more ~~percentage~~ and 7 from Hyderabad got 80% or more marks and 4 from Ranga Reddy Employment Exchange got 80% or more marks and thus 34 were selected and the remaining 29 posts remained unfilled.

4. It is not a case where a particular number of posts are allotted for those coming from Ranga Reddy District area. Thus, when it is a case of common selection from those coming from Hyderabad and Ranga Reddy areas and when it is a competitive examination, the paper should have been common or atleast it should be of similar standard when a minimum qualifying marks is prescribed.
~~and when it is a case of selection~~

5. It is contended for the applicant who hails from Ranga Reddy area that the papers set for their area is more difficult than the paper set for the Hyderabad area in the sense that it takes more time for answering the paper set for Ranga Reddy area than the time that may be taken for ^{the paper set for} Hyderabad area. The evaluation is on the basis of the number of depressions made in the time prescribed. It is further stated for the applicant that if the paper set for Ranga Reddy area is also similar to the paper set for Hyderabad area, he would have got 80% or more and he had got only 78.7%.

6. The Deputy Director working in the office of the 2nd respondent who is present in the court hall explained that the ^{period} time kept between the intimation and the date of

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17

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the examination for Ranga Reddy area is more than the time ^{period} kept between those two ^{dates} in regard to Hyderabad area and as there will be scope for more practice if there is more time kept, the ~~ex~~ pattern of the test adopted for Ranga Reddy area ^{is} are made different from the pattern adopted for Hyderabad area. ~~is~~ ^{is} -----

model paper was given and before the actual test was conducted for those coming from Ranga Reddy area, he explained that it ^{was} ~~is~~ necessary for the candidates to get them ^{selms} acquainted with the ~~ex~~ computers in making the ~~depre~~ssions of alphabets 'X' and 'Y' also in the half an hour which ^{was} ~~is~~ available ~~for~~ before the actual test ^{was} ~~is~~ conducted and hence the paper would not have come as surprise for them. If a candidate is asked to answer the two papers, he could have got less than only 0.3 or 0.4 percent in the paper set for Ranga Reddy area, and even if weightage in the marks to ~~xxxx~~ that extent is given to the applicant, he could not have got the minimum marks.

7. The Deputy Director who is present in the court hall might have stated ^{such low} the variance in the marks by, keeping in view his own efficiency, but the efficiency of the candidates who just now appeared for the data entry cannot be expected to be ^{that high} ~~that high~~ ^{standard} ~~extent~~. So, it is very difficult to visualise the difference in the marks if the candidate is asked to answer the paper set for Hyderabad area and also the paper set for Ranga Reddy area. But it can be stated ^{-out} ~~with~~ any contradiction that there will be difference in the number of marks that may be obtained by the same candidates who answers both these papers.

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Page

18

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8. As it is a case of conducting the test by the use of the computers, it may not be possible to conduct the test for hundreds or thousands of candidates at a time and hence necessarily the papers to be set for the candidates appeared for the same selection may be different. But the standard in setting the papers should be the same.

9. On comparison of the papers set for Hyderabad area and the Ranga Reddy area, it is noticed that the alphabet is there at the first of the each of the line in both the papers. But thereafter there are only numericals in the paper set for Hyderabad area while there are alphabets 'X' or 'Y' interspersed here and there in the various lines set in the paper for Ranga Reddy area. Thus, when the applicant who is from Ranga Reddy area failed to get the minimum marks by only 1.3% and as it is difficult to visualise as to whether he could have got more if the paper was set in the pattern of the paper set for Hyderabad area, the contention for the applicant about the discrimination cannot be held as baseless.

10. Then the question arises as to whether the re-examination has to be limited only to the applicant or for others who failed from Ranga Reddy area. The submission of the Deputy Director is to the effect that the variance in the marks will be less than one percent. Even if the widest margin of 10% is taken, it is just and proper to order re-examination for the candidates who appeared from Ranga Reddy area for the examination held on 30.10.1993 and secured 70% or more and less than 80%.

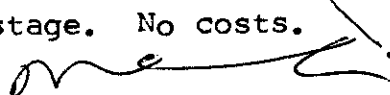
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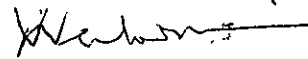
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19

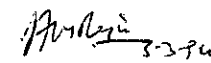
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11. The OA is ordered accordingly at the admission stage. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 21st February, 1994.
Open court dictation.


Deputy Registrar(J)CC

To vsn

1. The Registrar General and Census Commissioner of India, Min. of Home Affairs, Govt. of India, 2A, Mansing Road, New Delhi-11.
2. The Director of Census Operations, A.P. Ministry of Home Affairs, Govt. of India, Hyderabad.
3. One copy to Mr. P. Naveen Rao, Advocate, CAT. Hyd.
4. One copy to Mr. K. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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P. Balakrishna
22/2/94

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : 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 (J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

Dated 21-2-1994

ORDER/JUDGMENT:

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

in

O.A.No. 138/94.

T.A.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions of administration.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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