

(90)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.670/95.

Dt. of Decision : 3-3-98.

Maichand Giwwar Singh

..Applicant.

Vs

1. The Director,
Indian Railways Institute of Signal
Engineering & Telecommunications,
Tarnaka Road, Sec'bad-17.
2. B.Gyaneshwar
3. N.P.Parameswaran
4. C.D.Librarian, I.R.ISET.,
Tarnaka, Sec'bad-17.
5. The Professor, Telecommunication,
IRISET, Tarnaka, Sec'bad-17.
6. Sri S.N. Pal ..Respondents.

Counsel for the applicant : Mr.K.S.R.Anjaneyulu

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)





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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

Heard Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents. Private respondents No.2,3 & 6 have been served with notice. None were available, called absent.

2. The applicant who is SC candidate while working as Safaiwala was promoted on trial adhoc basis as counter Clerk by office order No.E/GC/Selection-Dt. 8th July, 1993 after having ^{time} ~~underwent~~ a test. It is stated in para-2 of the counter that the applicant was not posted on regular basis on 8-7-93 and was posted only on adhoc basis since regular selection was not conducted at that time for want of clarification from the Railway Board about the methodology to be adopted in implementing CAT orders regarding maximum allowable percentage of reservation of 15% and 7.5% for SC & ST communities respectively for in-service promotions. His promotion dated 8-7-93 was based on simplified procedure as being followed in respect of promotions ordered on adhoc basis.

3. The applicant was subjected to a regular selection for promotion to the post of Counter Clerk subsequently and he was promoted vide order dated 25-4-94. The promotion order of the applicant reads as below:-

"Shri Maichand Girwar Sing (SC), Counter Clerk (Adhoc), grade Rs.825-1200(RSRP), will work as Counter Clerk (Adhoc) in Library on trial basis for a period of six months from 4-4-94 to 3-10-94 and he will also be given in-service train. He should note that his continuance is subject to his attaining the requisite standards during the trial period."

It is clearly stated in the promotion order that the promotion of applicant is only on adhoc basis and that his continuance is subject to his attaining the requisite standards during the trial period.

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The work of the applicant was watched and he had been informed of ^{within} ~~of~~ his deficiencies in carrying ^{the} duties as can be seen from Annexures R-6 & 7 to the reply respectively. The applicant was reverted as his work was found deficient by the impugned order No. 96/94 dated 19-10-94 (Annexure-2 to the OA). It is also seen that an enquiry under Rule 9 of the Railway Servant (Disciplinary & Appeal) Rules, 1968 was ordered by one Mr. P. Venkatnarayana, Professor Telecom, by the order No. Staff/240 dt. 10-11-94 (Annexure-5 to the OA). It is stated that an enquiry was conducted accordingly and the applicant submits that the enquiry officer has noted in the enquiry report that the applicant is showing improvement in his work. However, that enquiry order dated 10-11-94 and the enquiry report was later withdrawn by R-1 on the ground that it was wrongly issued.

4. This OA is filed to set aside the order No. E/GS/Seln. dated 19-10-94 C.O. No. 96/94 and letter No. Staff/240/IV dated 5-1-95 (Annexure-9 to the OA) whereby the order No. Staff/240/ dt. 10-11-94 for instituting the enquiry was withdrawn and for a consequential direction to the respondents to treat the applicant as Counter Clerk continuously from 19-10-94 without any break and also for further promotion after regularising his services as Counter Clerk.

5. A very long reply has been filed in this OA. In our ^{have been} opinion this lengthy reply may not be essential as there are definite rules in regard to the promotion of reserved candidates on trial basis. The reserved candidates when subjected to an examination and none of them qualified in the examination then the best among the failed candidates are promoted on trial basis. During the trial period the performance of such candidate ~~was~~ ^{is} watched and if the performance is not satisfactory then the reserved candidate promoted on trial will be reverted to the post from where he was promoted. This is stated so in the reply also. The office order No. 36/94 dated 25-4-94 (Annexure-R-4 to the reply) is very clear that the

applicant was promoted on trial basis and that trial basis promotion was given as he was ^{the} best among the failed reserved community candidates. His performance was watched from the Month of May onwards and it is seen from the reports of R-6 and 7 that the applicant had not discharged his duties properly and he was found deficient from discharging duties as Counter Clerk while working as such on trial promotion. Hence his promotion was cancelled and he was reverted back to his original post of Safaiwala by the impugned order No. 96/94 dated 19-10-94 (Annexure-2 to the OA). From the above it is very clear that the rule position has been followed in regard to the reversion of the applicant from the post of Counter Clerk when he was not discharging his duties satisfactorily during the trial period.

6. It is not known why the order dated 10-11-94 was issued ordering an enquiry under Rule 9 of the Railway Servant (Dis. & Appeal) Rule, 1968. This is not a case wherein the applicant was reverted as a ^{measure} ~~matter~~ of punishment. He was promoted on trial basis as he was the best among the failed reserved candidate and when he was not discharging his duties ^{diligently} ~~adequately~~ while working as Counter Clerk during the trial period, he was reverted in accordance with the reservation rules. Hence in our opinion the issue of the order dated 10-11-94 is erroneous and uncalled for. We also find from the letter dated 10-11-94 that the order was issued by one senior official viz., Professor Telecom of the IRISET. It is beyond our comprehension to note that such ^a senior official is unaware of the rules. We feel that the issue of the order dated 10-11-94 has been done without examining the rules and was issued carelessly without examining the relevant rules minutely. In any case, that letter was withdrawn by the impugned order dated 5-1-95. It is not under stood why the applicant is impugning the letter dt. 5-1-95 when the order of enquiry was withdrawn by the letter dt. 5-1-95 when the withdrawal is to his advantage. The learned counsel for the applicant submits that in that order it is stated that his order for reversion was

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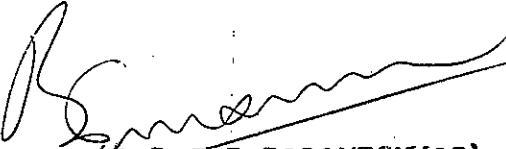
issued as per rules and because of that he has impugned that order. When the applicant had already impugned the reversion order we do not see much ~~significance~~ in impugning the letter dated 5-1-95. In any case, we do not want to advert to that issue any further as the applicant had already impugned his reversion order and we have already ~~upheld~~ upheld the reversion order as stated in previous paragraphs. Before we further proceed in this connection we would like to express our anguish in the discharge of the duties by the senior officers of the IRISET without following the rules. We would suggest the Member Incharge of the Signal Telecommunication Department under whose control the IRISET is functioning should take note of the lapse on the part of the official who has issued the order dated 10-11-94 and take remedial action ~~so~~ as to avoid recurrence of such in-correct procedure followed by the officials of the Railway.

7. Because of the issue of the order dated 10-11-94 an enquiry was conducted. In that enquiry report it is stated that the applicant is showing improvement in his work. Because of that statement in the enquiry, the learned counsel for the applicant submits that the case of the applicant has to be reviewed and he should not be reverted as he is showing improvement in his work. As stated earlier the order dated 10-11-94 had unnecessarily given hope to the applicant for reviewing the impugned order and the enquiry itself was cancelled. The report of the enquiry officer cannot be taken on the face value when the superior official to the applicant was not satisfied with his work. However, now that the enquiry officer has said that the applicant is improving, it is for the Member Incharge of the Railway under whose control the IRISET is functioning to assess the suitability of the applicant on the basis of his functioning and also on the basis of the enquiry report and decide whether the applicant is liable to be continued in the post of Counter Clerk.

8. Time for compliance is three months from the date of receipt of a copy of this order.

9. With the above direction the OA is disposed of.

No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
3/31/98


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 3rd March, 1998.
(Dictated in the OpenCourt)

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M.R.

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Copy to:

1. The Director, Indian Railway Institute of Signal Engineering & Telecommunications, Tarnaka Road, Secunderabad.
2. C.D.Librarian, I.R.ISET, Tarnaka, Secunderabad.
3. The Professor, Telecommunications, IRISET, Tarnaka, Secunderabad.
4. One copy to Mr.K.S.R.Anjaneyulu,Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Rajeswara Rao,Addl.CGSC,CAT, Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

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20/3/98

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

THE HON'BLE MR. B.S. JAI PARAMESHWAR :
M(J)

DATED: 3/3/98

~~ORDER/JUDGMENT~~

~~M.A./R.A./C.R.NO.~~

in
O.A. NO. 670/95

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS.~~

II COURT

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