

(40)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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O.A.No. 1295/95.

Dt.of Decision : 27-10-95.

1. M. Gopal Naik
2. D. Subba Rao
3. B. Venkateshwar Rao
4. T.S.R. Anjaneyulu

.. Applicant.

Vs.

1. The Union of India,  
Rep. by its Secretary,  
Railway Board, New Delhi.
2. The General Manager, SC Rly,  
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,  
SC Rly, Rail Nilayam, Sec'bad.

.. Respondents.

Counsel for the Applicant : Mr. N.Ramamohan Rao

Counsel for the Respondents : Mr. N.V.Ramana, Addl.CGSC.

CORAM :

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

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

(41)

O.A.NO.1295/95.

JUDGEMENT

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

Heard Shri N.Ramamohan Rao, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicants 1 and 2 are Data Processing Superintendents in EDP Centre, South Central Railway, while 3rd applicant is General Supervisor and 4th applicant is Senior Console Operator in the said Centre. The 1st applicant applied for consideration for selection of 30% of Limited Departmental Competitive Examination (LDCE) quota in regard to the post of Assistant Personnel Officer, and the 1st applicant was informed by the order dated 10.5.95 that as he does not belong to Group 'C' Ministerial staff, he is not eligible. It is stated that on the basis of the subsequent representation, he was informed that in view of the Railway Board letter No.E(CP)/87/2/62, dated 6.11.1991, he is not eligible after the EDP Recruitment Rules for Gazetted staff in EDP Centre had come into force in 1989. The further submission for the 1st applicant is that he made request for copy of the said letter of the Railway Board which was given to him on 29.9.95.

2. The examination in regard to the post of Assistant Personnel Officer (APO) for the 30% vacancies in LDCE quota is going to be held on 29.10.1995. This OA was filed today only ie. 27.10.95.

3. The letter No.P/GAZ/607/PB/93-94, dated 9.5.94 states that Group-C Ministerial staff of all other departments excluding Hindi and Accounts department but including Cash and

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Pay Office and Time Office fulfilling eligibility conditions referred to are also eligible for applying for the selection for the vacancies in the post of APO in Personnel Department which is going to be held by LDCE towards 30% quota.

4. The contention for the applicants is that the staff of EDP in Railways in Group-C were treated as Ministerial staff before 1989 Recruitment Rules for Gazetted Staff in EDP in Railways had come into force, and hence even after the promulgation of these Recruitment Rules, they continued to be the Ministerial staff and hence the Railway Board is not justified in holding that the Group-C staff in EDP in Railways do not come within the purview of Group-C Ministerial staff or that they are not eligible for consideration for promotion to the post of APO under LDCE quota.

5. But the question that has to be considered is as to whether there is any possibility of complying with the interim direction if it is going to be given to the effect that the 1st applicant who applied for shall be permitted to appear for the said examination to be held on 29.10.1995 with a condition that in case he is selected, no order shall be issued for promoting him to the said post pending disposal of the OA. It is submitted for the respondents that as it is already 4.30 PM and as tomorrow and day-after happened to be holidays and as the examination is going to be held day after, it is not possible to make arrangements for allowing the 1st applicant to appear for the said examination. It cannot be stated that there is no justification in regard to the said representation for the respondents. Thus we feel that it is not just and proper to pass any interim order to the above effect.

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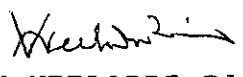
1. The Secretary, Railway Board,  
Union of India, New Delhi.
2. The General Manager, S.C.Rly,  
Railnilayam, Secunderabad.
3. The Chief Personnel Officer,  
S.C.Rly, Railnilayam, Secunderabad.
4. One copy to Mr.N.Pammohan Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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6. This is a case where the applicants approached at the last moment. If they approached atleast a day earlier, the possibility of issual of an interim order could have been there, and ultimately the OA could have been considered on merits. But in view of the delay on the part of the applicants in approaching this Tribunal, we feel that the OA itself has to be dismissed on the ground of laches without consideration of the merits, and leaving it open for determination as and when they arise. It is well established that mere relief for declaration will not be decided if the consequential relief which can be prayed for is not sought. So, it will be an exercise in futility if the merits are considered when ultimately the applicants cannot get the relief in view of the laches. It is needless to say that as and when next notification is going to be issued for this post under LDCE quota and if the applications of the applicants are going to be rejected, they are free to move this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 and then the question of consideration on merits will arise.

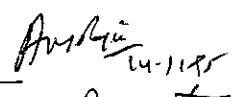
7. For the reasons stated above, this OA is dismissed at the admission stage on the ground of laches. No costs.//

  
(A.B. GORTHI)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 27th October, 1995  
Open court dictation.

vsn

  
Deputy Registrar (S) CC

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRAN  
VICE CHAIRMAN

AND

*A. B. Ghorshi*  
THE HON'BLE MR. ~~R. RANGARAJAN~~ : M(A)

DATED: 27-10-1995

ORDER/JUDGMENT

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

in

O.A.No.

1295/95

T.A.No.

(W.P.No.)

Admitted and Interim directions  
Issued.

Allowed.

Disposed of with directions.

Dismissed at the admission stage

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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Central Administrative Tribunal  
DESPATCH

22 NOV 1995

HYDERABAD BENCH