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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1318/95

Date of Order: 18.7.96

BETWEEN:

- | | |
|---------------------|----------------------|
| 1. Syed Pasha | 15. Sendia Hari Bhan |
| 2. Uttam Kurmajee | 16. Md. Ghousuddin |
| 3. Mastan Khan | 17. Syed Omeer |
| 4. Gothum | 18. Rama Ratan |
| 5. Goulab | 19. Seetaram Kishan |
| 6. Eknath | 20. Joseph Thomas |
| 7. Sk. Mahmood | 21. Ubale. B. |
| 8. Laxminarayan | 22. Syed Akbar |
| 9. Gangadhar Saaram | 23. Engale Ganpath |
| 10. Abdul Rasheed | 24. Eswar Saidoo |
| 11. Hari Maruthi | 25. Narayan Sambajee |
| 12. Balram Rupla | 26. Ashwar Shrirung |
| 13. Pandith K. Rao | 27. Vishwanath Sopan |
| 14. Vittal Laxman | 28. Ramesh Gayno. |
- .. Applicants.

A ND

1. Union of India, rep. by its
General Manager, S.C.Rly.,
Secunderabad.
 2. Divisional Railway Manager,
S.C.Rly., M.G. Hyderabad
Division at Secunderabad.
 3. Senior Divisional Mechanical Engineer,
S.C.Rly., Hyderabad Division,
at Secunderabad.
- .. Respondents.

Counsel for the Applicants ... Mr. S. Lakshma Reddy
Counsel for the Respondents ... Mr. N. V. Ramana

CORAM:

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

J U D G E M E N T

X Oral order as per Hon'ble Shri R. Rangarajan, Member (Admn.) X

Mr. S. Lakshma Reddy, learned counsel for the applicant
and Mr. V. Rajeswara Rao for Mr. N. V. Ramana, learned standing
counsel for the Respondents.

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2. There are 28 applicants in this OA who were working as Fireman and stationed at Purna, S.C.Railway. On the closure of steam locoshed at Purna they were transferred to Secunderabad division on deputation basis. But that was withdrawn and that order was not implemented. However, the applicants claimed promotion to the post of Diesel Assistants as they allege that some of their juniors of the Purna locoshed are already working as Diesel Assistants and were also headquartered at Purna. In view of the above they were asked to amend the prayer suitably in this connection.

3. The^o amended OA is filed praying for a direction to the respondents to promote the applicants who are seniors in the II Fireman grade as Diesel Assistants on par with their juniors in the II Fireman category from the date they became eligible after passing the diesel conversion course by following the para 216 of IREM with all consequential benefits.

4. In view of the statement of the applicants that the transfer on deputation to Secunderabad division have been stayed, the main points for consideration in this OA are:-

(1) Whether any of the juniors to the applicants are working as diesel assistants in Hyderabad division and if so any relief has to be extended to the applicants in view of the above.

(2) Whether the applicants can be promoted as diesel assistants in Hyderabad division itself against existing and future vacancies.

5. The learned standing counsel submitted that the applicant cannot claim any seniority over their erstwhile ~~now~~ juniors as their juniors were promoted when the applicants herein were not possessing the requisite qualification for the promotion to the post of diesel assistants. Learned standing counsel further submits that their juniors were promoted wayback in 1991 and

confirmed in the year 1992. But at that time the applicants did not possess the qualification, even at the time when their juniors were promoted regularly. In any case the question of seniority is not pressed in this OA by the applicants. Hence the seniority question is left open to be decided at a later date as and when it arises.

[the applicants did not possess the requisite qualification]

6. In view of the above the only point that survive in this OA is whether the applicants in this OA can be promoted to the post of Diesel Assistants now if the vacancy exists. It is submitted by the respondents themselves that while filling up the vacancies of Diesel Assistants, the overall vacancy position will be taken into account but not station-wise and the case of the applicants will also be considered if they fulfill the requisite condition for promotion as Diesel Assistants. It is further stated that the cadre is having overall excess to the sanctioned strength at present and hence no promotion order can be issued.

7. But the learned counsel for the applicant submit that as on date there are 26 vacancies in the division and against those vacancies the applicants can be promoted as they are due and their turn has come for such promotion. It is also submitted that they possess all the educational and age qualification for promotion to the post of Diesel Assistants. But these facts are a matter for verification from records. There is nothing to adjudicate in regard to availability of vacancies as the sanctioned strength and the actual strength which are readily available in the divisional cadre strength has to be seen to decide the cadre position. If there are no vacancies now the applicants are to be promoted in due course as and when vacancies arises in future and in their turn provided they fulfill the other requisite conditions for promotion to the post of Diesel Assistants.



8. In view of the fore-going the following direction is given:-

The applicants in this OA should be considered for promotion even if it is an adhoc promotion against the vacancies now available. If there are no vacancies available now they should be considered for promotion as and when vacancies arises in future. The above direction for consideration of promotion is subject to the condition that the turn of the applicants have come for promotion and they possess the necessary educational and other age qualification.

9. It is needless to say that no reversion of the diesel assistants will be involved in case the applicants are promoted in pursuance of the above direction.

10. The OA is ordered accordingly. No costs.

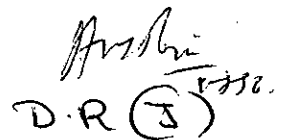


(R. RANGARAJAN)
Member (Admn.)

Dated: 18th July, 1996

(Dictated in Open Court)

sd



D.R. (J)

Contd...

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D.A.NO.1318/95

Copy to:

1. The General Manager,
South Central Railway,
Secunderabad.
2. Divisional Railway Manager,
South Central Railway,
Hyderabad Division,
Secunderabad.
3. Senior Divisional Mechanical Engineer,
South Central Railway,
Hyderabad Division,
Secunderabad.
4. One copy to Mr.S.Lakshma Reddy, Advocate,
CAT, Hyderabad.
5. One copy to Mr.N.V.Ramana, Addl.CGSC, CAT, Hyderabad-
6. One copy to Library, CAT, Hyderabad.
7. One duplicate copy.

YLKR

6/8/96

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COMPALED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 18/7/96

ORDER/JUDGEMENT
O.A. NO./R.A./C.P. No.

in

O.A. NO. 1318/95

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

YLKR

II COURT

No Spare Copy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज/DESPATCH
- 2 AUG 1996
हैदराबाद न्यायपीठ
HYDERABAD BENCH