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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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O.A. 1331/95.

Dt. of Decision : 08-11-95.

1. G. Eswar
2. Kishore Kandojee
3. Amruth Kishan Bange

.. Applicants.

Vs

1. Union of India, Rep.  
by the General Manager,  
SC Rly, Rail Nilayam,  
Secunderabad.
2. Sr. Divl. Personnel Officer,  
SC Rly, Hyderabad Division,  
Opposite Rail Nilayam,  
Secunderabad.
3. The Divl. Rly. Manager (P),  
SC Rly, Hyderabad Division,  
Opposite Rail Nilayam,  
Secunderabad.

.. Respondents.

Counsel for the Applicants

: Mr. G. Ramachandra Rao

Counsel for the Respondents

: Mr. V. Bhimanna, Addl. CGSC.

CORAM:

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

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

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O.A.1331/95

Dt.of order:8-11-1995

ORDER

As per Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Héard Shri G. Ramachandra Rao, learned Counsel for the applicant and Shri V. Bhimanna, learned Standing Counsel for the respondents.

2. A selection was held for promotion to the posts of Assistant Guards and Memo No.Y/P/Con-605/Selec~~x~~ AG/94 dated 6.7.1995 was issued by R3, empanelling six employees including the three applicants herein for promotion to the post of Assistant Guards. They were sent for training on 7.8.1995 for 21 working days.

3. But, in the meanwhile, the Vigilance submitted a report to the effect that 4 out of the 6 empanelled candidates are not even eligible for interview, if the marks awarded for the wrong answers in the objective type of question paper are deleted, and, in some answer sheets, the Vigilance noticed that marks were not awarded for the correct answers while marks were awarded for the wrong answers in the objective type of question, and there were also some mistakes in totalling. Basing on the said report, R3 cancelled the selection and ordered 'fresh selection' as per Memo & Notification No.YP/605/P11/2/Asst.Gd/Selec/Pt.IV dated 10.10.1995. The same is challenged in this OA.

4. It is now well-settled that it is open to the Competent authority to cancel a panel prepared for consideration for promotion on the basis of a selection or even on the basis of non-selection, if there are justifiable grounds for such cancellation. The report

of the Vigilance is the basis for ordering cancellation. The Vigilance noticed some lapses on the part of the valuer in regard to the answer sheets of the 4 of the six empanelled. It also observed ~~inter-alia~~ that there were some mistakes in totalling. In such a case, there is a possibility of setting it right by requiring another valuer to verify the answer sheets of the remaining ~~these~~ employees who had appeared for the examination (other than those empanelled) to find out as to whether there is any mistake in totalling/any mark was awarded for wrong answer/~~or~~ no mark was awarded for the correct answer, in the answer sheets of the objective type. If any mark was awarded for wrong answer, the same has to be deleted, and marks have to be given if no marks were given earlier to the right answer and if such marks were awarded, they have to be added <sup>already noted.</sup> ~~the total~~  $\angle$  If there is any mistake in regard to the totalling, the same also has to be corrected. After it is being so done, those who got 50 or more in the written test and if they were not called for interview earlier, they have to be called now for the interview. The interview has to be conducted by the same Board which conducted the interview in regard to the empanelled candidates and others who qualified in the written test earlier. And, if ~~any~~ Chairman/<sup>any</sup>Member of the earlier interview Board is transferred, the one who has come in place of the Chairman/Member who was transferred, has to be appointed as Member of the interview Board.

5. There is no bar for the respondents to promote the existing 2 out of the 6 empanelled candidates (out of which one is the applicant in this OA) on adhoc

basis if the competent authority feels it necessary to fill up the vacancies in the post of Assistant Guard.

6. So, we feel that it is not a case where the entire selection has to be cancelled, for if it is cancelled, such of the candidates who are empanelled in regard to whose answer sheets there are no irregularities, will suffer for no fault of theirs. As such, the impugned memo No.YP/605/P11/2/Asst.Gd/Selec/Pt.IV dt.10.10.1995 issued by the 3rd respondent has to be held arbitrary and is liable to be set aside and directions as referred to above, have to be given to the respondents.

7. In the result, the OA is ordered at the admission stage as under:

- i) The impugned memo No.YP/605/P11/Asst.Gd/Selec/Pt.IV dated 10.10.1995 is set aside.
- ii) The answer sheets of the candidates (other than those empanelled) in regard to the objective type have to be entrusted to another valuer to find out as to whether there is any mistake in totalling or, a case where mark is not awarded for the correct answer, or, a case where marks have been noticed, the said valuer had to set right the same and after correcting the total, if it is found necessary by deleting the marks if any awarded for wrong answer, and by adding the mark to correct answer if not awarded earlier and if any of those candidates who did not get the qualifying marks earlier gets qualifying marks now in the revaluation in the objective type of paper, they have to be called for interview.

To

1. The General Manager, Union of India,  
SC Rly, Railnilayam, Secunderabad.
2. The Sr.Divisional Personnel Officer,  
S.C.Rly, Hyderabad Division,  
Opp: Railnilayam, Secunderabad.
3. The Divisional Railway Manager(P) S.C.Rly,  
Hyderabad Division, Opp: Railnilayam,  
Secunderabad.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr. V.Bhimanna, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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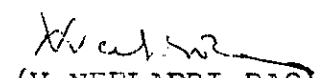
- iii) The interview has to be conducted by the same Board which conducted the interview in regard to the empanelled candidates and others earlier, and if any one is not now available, one who has come in his place has to be appointed as Chairman/Member of the Interview Committee. - It is submitted for the respondents that one SC officer who was a Member in the earlier Board was transferred and in his place, an officer belonging to OC category has come. In such a case, the one who has come now in the place of transferred SC officer and another officer representing SC Category have also to be appointed as Members of the Interview Committee.
- iv) If on the basis of the re-valuation by the valuer as referred to above, those, who got qualifying marks earlier, get less than 50% in the re-valuation, their names have to be necessarily excluded and the same cannot be considered for selection which is being done on the basis of 'inter-se' seniority from amongst those who got the minimum marks in the written test, record of service, and viva-voce.

The above exercise has to be completed by the respondents expeditiously and preferably by 31.12.1995.

8. No costs.//



(R. RANGARAJAN)  
Member (Admn)

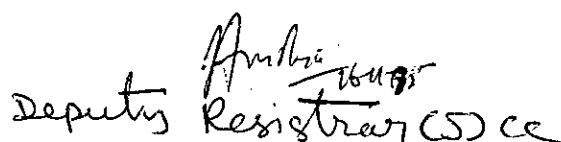


(V. NEELADRI RAO)  
Vice Chairman

Dtd.: The 8th November, 1995

Dictated in the open court

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Deputy Registrar (S) ce

TYPED BY

CHECKED BY.

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

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

DATED: 8-11-1995

~~ORDER~~/JUDGMENT

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

in

O.A.No. 1331/95

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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No Spare Copy

