

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

\*\*\*\*\*

R.  
O.A.1484/95.

Dt. of Decision : 27-04-98.

N.Venkatswamy

.. Applicant.

Vs

1. The General Manager,  
SC Rly, Rail Nilayam,  
Sec'bad.
2. The Divl. Rly. Manager,  
Broad Gauge, SC Rly,  
Sec'bad.
3. The Sr.Divl.Personnel Officer,  
SC Rly, Sanchalan Bhavan,  
Sec'bad.
4. Mr.Bala Swamy

.. Respondents.

Counsel for the applicant : Mr.U.Pattabhi Ramaiah  
Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGSC.

CORAM:-

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

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

*Fe*

ORDER

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

Heard Mr.Sastry for Mr.U.Pattabhi Ramaiah, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents. Notice served on R-4. Called absent.

2. The applicant in this OA while working as Coach Attendent 'Group-D' in the Commercial department appeared for the selection to the post of Ticket Collector against 33-1/3% promotional quota from Group-D to Group-C as Ticket Collector. As a result of the written test held on 27-8-94 the applicant was declared passed the written examination and his name stood at the Sl.No.8 in that order at Annexure-3. The final panel was published by order No.CP/529/2/1/Selection/TCs dated 23-12-94 (Annexure-II). The first 7 employees who had passed the written examination were empanelled. The applicant who was 8th in the Sl. Number in the written test did not find place in the final panel. The applicant submits that R-3 did not fulfil the service eligibility condition and hence he should not have been empanelled and as he is the 8th man if the name of R-4 is deleted from the panel he <sup>would</sup> ~~will~~ come in the final empanelled list.

3. This OA is filed praying for a direction to delete the name of R-4 from the empanelled list and include the name of the applicant in that list.

4. The whole issue depends on the reading and proper interpretation of the recruitment rules for the post of Ticket Collector against promotional quota.

5. Para-127 (1)(ii) of IREM Vol.II states that 33-1/3% by promotion by a process of selection from eligible Group-D categories of staff as specified by Zonal Railway Administration (Emphasis added).

*in*

*✓*

6. The above is the recruitment rule for promotion against 33-1/3% promotional quota. The Zonal Railway Administration has issued serial circular No.149/85 dated 30-6-85 indicating the service eligibility condition for promotion from Group-D to Group-C indicating the qualifying service. This letter reads as follows:-

"Sub : Promotion from Group-D to Group-C qualifying service-regarding.

In terms of instructions contained in Board's letter No.E(NG)169/CFP/9 dated 6-8-69 circulated under this office Serial Circular No.213/69, Group-D employees seeking promotion to Group-C posts in the lowest recruitment grade should have put in a minimum qualifying service of 3 years as a general condition. Accordingly in all selections conducted on this Railway for promotion of employees of Group-D categories to posts in Group-C categories, the principle adopted has been to reckon the service rendered in Group-D category of posts irrespective of the department/departments in which such service is rendered subject to the condition that at the time of initiation of the selection, the Group-D employee concerned is working in the relevant feeder cadre as per channel of promotion.

This position has been examined and the administration, in consultation with the organised labour, have now decided that the qualifying service viz., 3 years required to be rendered by an employee of Group-D category seeking promotion to Group-C should be in the feeder cadre/category as per channel of promotion.

The above instructions will have effect from the date of issue of this letter."

7. The main thrust of the letter is that the qualifying service viz., 3 years required to be rendered by an employee of Group-D category seeking promotion to Group-C should be in the feeder cadre/category as per channel of promotion (Emphasis added). The respondents have conducted the present selection without adhering to the above said instructions in the recruitment rules and the serial circular issued by the Zonal Railway Administration referred to above. Instead the learned counsel for the respondents submit that they followed the Personnel Branch Circular No.176/92 dated 28-12-92. Relying on that letter the respondents submit that the minimum qualifying



-4-

service of 3 years in Group-D service is sufficient. He further adds that the minimum 3 years in Group-D service is subject to the condition that the employee in the Group-D service possessing 3 years of service to be considered will have no further channel of promotion above Group-D. But that stipulation does not find a place in this letter. The relevant paragraph is re-produced below:-

"Having regard to the judgement pronounced by CAT/HYD in OA.247/88, as also references received from certain Divisions the matter was re-examined in consultation with both the organised labour and it is decided that Group-D employees seeking promotion to Group-C posts in the lowest grade should put in a minimum total qualifying service of 3 years in Group-D service."

The learned counsel further clarified that the letter dated 28-12-92 has been done in continuation of the earlier letter extracted above. The earlier letter is very clear in regard to the period of 3 years to be spent in the feeder category. Whereas this letter does not touch the point except stating that the qualifying service of 3 years in Group-D service is necessary. This would mean that the instructions given by letter dated 28-12-92 has no proper co-relation with the earlier letter extracted above.

8. The learned counsel for the respondents further submit that the letter dated 28-12-92 was issued having regard to the judgement pronounced by CAT, Hyderabad in O.A.247/88 and also taking note and the references received from certain divisions and in consultations with the organised labour.

9. We have perused the judgement in OA.247/88. If the 3 years Group-D service is taken as the qualifying service for the post of Ticket Collector then any Group-D staff in any department having the required years of service can apply. That would mean that the Group-D staff working in the commercial department will be put to dis-advantage as <sup>than</sup> this promotion to the

B



post of Ticket Collector as mentioned in the recruitment rule will be taken away. The above has not been brought to the notice of the earlier Bench which decided ~~in~~ OA.247/88 and hence they came to the conclusion as given in the judgement. As the respondents failed to bring out the full facts before that Bench that Bench took a decision on the basis of the material available on record at that time. Hence we feel that the departure from that judgement in OA.247/88 is necessary in this OA. This OA is discussed further with that view.

10. AS the respondents failed to place before us the minutes of the meeting wherein the organised labour was consulted we have nothing to comment on that consultation. We will leave it at that.

11. The letter dated 28-12-92 if followed in true spirit will cause immense hardship to the commercial staff who are working in Group-D posts aspiring to become Ticket Collector and other commercial clerical categories. The letter would mean that any Group-D staff in any department may appear for this selection. Though the learned counsel for the respondents submit that this should be read in conjunction with para-189 of the IREM, There is no mention in regard to that para in the letter dated 28-12-92. A circular letter embodying the rules for promotion has to be clear cut and it cannot be left to the imagination of the readers. As the respondents failed to mention anything other than stating that the qualifying service of 3 years in Group-D service is required for promotion to Group-C it cannot be read in any other manner other than reading it as a person having 3 years of service in Group-D in any department can appear for a Group-C service in any other department. This is not the intention of the rule making authorities when the recruitment rule mentioned in para-127 of IREM was brought into

R

B


-6-


force. Hence, we are of the opinion that the letter dated 28-12-92 has been issued without giving any thought to the implication of that letter and hence we are of the opinion that this letter has to be set aside and accordingly it is set aside as it robs off the legitimate promotional opportunities of the Group-D staff of the Commercial department.

12. Having set aside the letter of Zonal Railway dated 28-12-92 the next point that arise for consideration is the method to be adopted for filling up the post of Ticket Collector against promotional quota.

13. Para-127 of the IREM which gives the recruitment rules for promotion to the post of Ticket Collector has to be followed strictly as specified by the Zonal Railway Administration. The panel issued for the present selection should be re-examined in that view point and see whether the panel issued is in accordance with the recruitment rules. A decision in this connection should be taken by R-2 within a period of 3 months from the date of receipt of a copy of this order. On the basis of that decision the retention or deletion of the name of R-4 from the select panel dated 23-12-94 has to be decided.

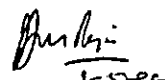
14. The OA is ordered accordingly. No costs.

  
22.4.18  
(B.S. JAI PARAMESHWAR)  
MEMBER(JUDL.)

  
(R. RANGARAJAN)  
MEMBER(ADMN.)

Dated : The 27th April, 1998.  
(Dictated in the Open Court)

spr

  
1-588  
DNK

DA.1484/95

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Sec'bad.
2. The Divl. Rly. Manager, Broad Gauge, SC Rly, Sec'bad.
3. The Sr. Divl. Personnel Officer, SC Rly, Sanchalan Bhavan, Secunderabad.
4. One copy to Mr. U. Pattabhi Ramaiah, Advocate, CAT., Hyd.
5. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate.

Srr

27/5/98  
(7)

II COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 27/4/98

ORDER/JUDGMENT

M.A./R.A./C.P.NO.

in

O.A.NO.

1384/95

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS  
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

