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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No. 220 OF 1995.

Date of Order: 14-7-1998.

Between:

1. T.Rama Swamy.
2. A.Ramakoteswara Rao.
3. P.Radharani.
4. L.Nagendra Babu.
5. Syed Shabasha Hussain.
6. R.Swarnalatha.
7. S.Indira Kumar. .. Applicants

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1. Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
2. Divisional Railway Manager, South Central Railway, Vijayawada.
3. Smt.B.Sudhamayi, Office Superintendent Gr. II, Sr.Divisional Electrical Engineer (M), Office, South Central Railway, Vijayawada.
4. Smt.K.Bharathi Devi, OS-Gr.II, Sr.Divl.Electrical Engineer/TRS/Electrical Loco Shed, S.C.Rly, Vijayawada.
5. P.Satya Prakash Rao, OS.Gr.II, Sr.Divl. Electrical Engineer, Traction Operation, South Central Railway, Vijayawada.
6. Smt.B.Nagarani, OS.Gr.II, Chief Project Manager, Railway Electrification, Vijayawada.
7. V.P.V.Prabhakar Rao, CS.Gr.II, Asst.Electrical Engineer's Officer, (TRD) S.C.Railway, Bapatla.
8. N.Krishna Murthy, OS.Gr.II, Sr.Divl.Electrical Engineer(TRS) Office, S.C.Railway, Vijayawada.

(Respondents 3 to 8 are impleaded as per Court Order dated: 2-4-98 in MA.No. 44/98).

.. Respondents

COUNSEL FOR THE APPLICANTS : Mr.G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS : Mr.D.F.PAUL

: Mr.G.Ramchandra Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)
AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

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: O R D E R :

(AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN))

Heard Mr.G.V.Subba Rao for the Applicant
and Mr.D.F.Paul, ^{for the Respondent} and Mr.G.Ramchandra Rao for the
private respondents 3 to 8.

2. There are seven applicants in this OA. A notification was issued for the selection to the post of Office Superintendent Grade-II in the scale of pay of Rs.1600-2660/- (Electrical Branch), vide Notification No.B/P.608/II/Office Clerks/Vol.II, dated :14-7-1994 (Page.11 to the OA). Subsequently, a Corrigendum was issued bearing No.B/P.608/II/Office Clerks/Vol.II, dated :6-9-1994 (Page.14 to the OA) indicating the date of the Written Examination is to be held on 17-9-1994. The Written Examination was held as scheduled and six candidates were declared qualified for being called for viva-voce as per Order No.B/P.608/II/Clerks/Vol.II, dated :9-1-1995 (Page.16 to the OA). Six candidates were included in the panel; wherein the names of the applicants do not find the place. The applicants had filed a representation addressed to Respondent No.2 through proper channel by their representation dated : 11-1-1995 requesting Respondent No.2 to protect their seniority by considering the facts mentioned in their representation and to promote them.

3. This OA is filed to set aside the letter No. B/P.608/II/Office Clerks/Vol.II, dated :14-7-1994, 6-9-1994, 9-1-1995 and 9-1-1995 whereby the selection proceedings were conducted by holding them as arbitrary, illegal, and unconstitutional, violative of Articles 14 and 16 of the Constitution, and for a consequential direction

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to the respondents to conduct a fresh Selection for filling up the posts of Office Superintendents Grade-II in the scale of pay of Rs.1600-2660/- as per rules.

4. Four main contentions were raised in this OA.

5. The first contention is that, the initial notification was issued on 14-7-1994 and the date of selection was fixed by letter dated:6-9-1994 fixing the date of written examination on 17-9-1994 ie., within 11 days from the date of issue of the letter dated:6-9-1994. Hence the time given is less than what is provided for in the IREM for appearing for the Written Examination. Hence on that score itself the selection is liable to be set aside.

6. The applicants were alerted by notice dated:14-7-94 (page.11 to the OA). The Corrigendum is an only an extension of earlier letter fixing the date. Hence in our opinion the time given for the applicants to prepare for the examination is to be counted from 14-7-1994 and not from 6-9-1994. Even presuming that the applicants had very limited time to prepare, the applicants could have immediately represented their case to the appropriate authority for postponing the date of Written Test to be held on 17-9-1994. But the applicants failed to do so. When they failed in the examination, they listed it as a grievance for setting aside the Selection. When they thus had failed to represent their case in time and submitted to the Selection, the question of setting aside the selection even if the Written Examination is listed within a short period cannot be upheld. Hence this contention is rejected.

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7. The second contention of the applicant, is that, the vacancies to be filled on the basis of the selection is shown as six(6) of OS Grade-II and one anticipated in the notification dated :14-7-1994. The learned Counsel for the applicant, submits that one Smt. Elizebethamma was to go on mutual transfer elsewhere and that vacancy was counted as an anticipated vacancy; but she had not left ~~to~~ the Department. Without her being transferred on the basis of the mutual transfer due to some reason/other ^{or} ~~was~~ that vacancy was not there. But ~~included as~~ an anticipated vacancy which is irregular. There were only six vacancies and the number of candidates called for the selection is for seven(7) vacancies. Thereby the zone for consideration was extended and that resulted in their Juniors getting promotion as OS Grade-II depriving the applicants herein of their promotion as OS Grade-II.

8. The learned Counsel for the respondents submitted that the vacancy reported to have been caused by mutual transfer of Smt. Elizebethamma was not ^{at all} ~~not~~ taken into account. The anticipated vacancy was decided on the basis of the facts available on record. Hence the contention raised by the applicant is not tenable.

9. In order to verify the above submission of the respondents, we called for the details by which the number of vacancies notified ^{were} ~~was~~ arrived at. We find that the anticipated vacancy was listed due to the retirement of one OS Grade-I by name Sri B.Ramaiah who retired on 31-5-1995. Hence the submission of the applicant, that the existing vacancy is caused by mutual transfer of Smt. Elizebethamma is not correct and is not

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bome by the records. Hence it has to be held that the total number of vacancies ^{notified} as seven is in accordance with the rules and it cannot be challenged. The zone of consideration was decided correctly on the basis of the vacancies to be filled viz., seven in this case. Hence the second contention is also rejected.

10. The third contention of the applicant in this OA is that, questions which were out of syllabus were asked in the Examination for OS Grade-II and hence Selection is liable to be set aside on that basis. We asked the learned Counsel for the applicant whether any representation ~~was~~ immediately after the selection was over was submitted to the respondent's quoting the questions which were outside the syllabus and requesting to conduct the Examination once again. The learned Counsel for the applicant requested us to peruse their representation dated 11-1-1995 (Page. 18 to the OA). We have perused that representation. But we find that ~~therein~~ ~~was~~ ~~there~~ ~~is~~ no such request was made by the applicants. They only requested for intervening and rendering natural justice ^{by} for promoting them as OS Grade-II. This representation cannot be taken as a representation requesting for setting aside the Examination and conduct re-examination on the ground of questions in the question paper were outside the syllabus.

11. Further we also find from para. 6 of the OA that the subjects viz., kinds of Audit Inspections and establishment matters were asked in the question paper which ~~were~~ are beyond the purview of the syllabus.

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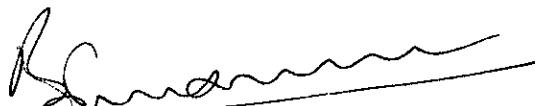


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12. We are at a loss to note the above contention. An Office Clerk should definitely know about the Audit Inspections and the purpose of the audit inspections, whether he belongs to Accounts, Electrical, Mechanical or any other discipline. Audit Inspections are regularly conducted even in electrical department. Hence as a Clerk he cannot say ^{that} he is unaware of the Audit Inspections report. Secondly, the establishment matters are the bread earner of a Clerical post. If a Clerk does not know about that, he cannot put up notes to higher authorities when establishment files are to be examined. The applicants have misunderstood their functions. These applicants are also eligible for promotion as Assistant Personal Officer in Personal Branch. If they are not aware of the establishment matters, it is not understood how can they write the examination for the post of Assistant Personal Officer when notification for filling up those posts are issued. It cannot be said that the applicants may not volunteer for those vacancies. Hence on that count also we find that this contention is invalid.

13. The fourth contention of the applicants is that the respondents had not given training for the SC/ST employees. None of the applicants here belongs to the reserved category of SC/ST. Hence this is not a reason for them to protest against selection.

14. In view of what is stated above, we find no merits in this OA. Hence the OA is dismissed. No costs.


(B.S.JAI PARAMESHWAR)
MEMBER (A)
14.7.98


(R.RANGARAJAN)
MEMBER (A)

DSN

Dated : this the 14th day of July, 1998
Dictated in Open Court

DA.220/95

Copy to :-

1. The Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
2. The Divisional Railway Manager, South Central Railway, Vijayawada.
3. One copy to Mr. G.V. Subba Rao, Advocate, CAT., Hyd.
4. One copy to Mr. D.F. Paul, SC for RIYS, CAT., Hyd.
5. One copy to Mr. G. Ramachandra Rao, SC for RIYS, CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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II COURT

TYPED BY CHECKED BY
COMPARED 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 PARAMESWAR :
M(J)

DATED: 14/7/98

ORDER/JUDGMENT

M.A/R.A/C.P.H.C.

in
C.A. No. 220 / 95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPENSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COST
YLR

संघीय प्रशासनिक अधिकारण
Central Administrative Tribunal
प्रेषण / DESPATCH

27 JUL 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH