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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 267/95.

Date of Decision : 15-11-95.

A.R. Anjaneyulu

.. Applicant.

Vs

1. The General Manager,
SC Rly, Rail Nilayam,
Secunderabad.

2. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad.

3. The Divisional Railway Manager(P),
Hyderabad Division, SC Rly,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. V.Venkateswara Rao

Counsel for the Respondents : Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

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

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OA.267/95

Judgement

(As per Hon. Justice Mr. V. Neeladri Rao, V.C.)

Heard Sri V. Venkateswara Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicant is now working as Head Master (Non-Gazetted) in the Railway Mixed High School at Lalaguda. The Head Masters (Non-gazetted) possessing the requisite qualifications are also eligible for promotion to the post of Head Master (Gazetted) Group-B. The selection to the post of Head Master (Gazetted) is being held by conducting an interview. The applicant was interviewed for selection for the post of Head Master (Gazetted) on 15-9-89. But he was not selected.

3. Alert notice was issued on 26-4-94 for selection to the post of Head Master (Gazetted). When the name of the applicant was not in the said alert list, he made representation dated 2-5-1994 to R-2 requesting for inclusion of his name in the zone of consideration at appropriate place. The applicant was informed by impugned letter dated 17-5-94 that as he does not possess the post-graduate qualification, his name is not included in the alert-list. Being aggrieved the applicant filed this OA praying for setting aside the impugned letter dated 17-5-1994 by holding that the applicant's name had to be included in the alert-list on 26-4-94 without insisting upon the qualification of Post-graduation for promotion to the post of Head Master (Gazetted).

4. On 23-2-95 this Bench ordered that until further orders, if promotions are going to be made to the posts of Headmaster(G) they will be subject to the result in this OA and it has to be so mentioned in the order of promotion. It is now submitted that no panel for promotion to the post of Head Masters (Gazetted) was prepared after 23-2-1995.
5. It is now evident that in the reply dated 17-4-1994 the applicant's name was not included in the alert list as he is not having post-graduation qualification. Extract from the Gazette of India, Part II, Sec.3, sub-sec.(f) under CSR.374 in regard to the Recruitment Rules for the post of Head Master (Gazetted) Group-B which were formulated in exercise of power under Article 309 of the Constitution was filed as Annexure. It does not disclose that post-graduation is a necessary qualification for consideration for promotion to the post of Headmaster (Gazetted) (vide column 12). It is not even stated in the reply statement that the said recruitment rule was amended. It is not stated in the reply statement about the basis on which it was held that post-graduation qualification is essential for consideration for promotion to the post of Head Master (Gazetted).
6. The only plea in the reply statement is that as the Railway Board letter dated 4-10-1989 (Annexure to reply statement), stipulates that a minimum of second class Master degree besides B.Ed. and also the competence of teaching in the required medium is requisite qualification for the post of Post-graduate Teachers and as the said post is one of the feeder categories for promotion to the post of Headmaster(G) it has to be inferred that for eligibility for consideration for promotion to the Post of Head Master (Gazetted), one

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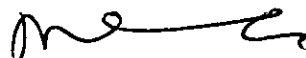
UP2

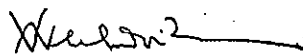
possess the post-graduation qualification. But we accede to the said contention. Recruitment rules were formulated in exercise of power under Article 309 of the Constitution. The same cannot be amended even by Executive Instructions. Infact, there is not even Executive instruction to state that post-graduation qualification is essential for consideration for promotion to the post of Head Master (Gazetted).

7. Hence, we hold that there is no basis for the observation in the impugned reply dated 17-5-1994 that the post graduation qualification is essential for consideration for promotion to the post of Head Master (Gazetted), Group-B.

8. In the result, the OA is ordered as under :

The name of the applicant has to be included in the alert list dated 26-4-1994 at the appropriate place for consideration for promotion to the post of Head Master (Gaz) Group-B. No costs. //


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : Nov. 15, 95
Dictated in Open Court


Deputy Registrar(J)

To

1. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
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2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad.
3. The Divisional Railway Manager(P) Hyderabad Division, S.C.Rly, Secunderabad.
4. One copy to Mr.V.Venkateswar Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

G.O. sec

Received
on 17/11/95.

C.C. by 16/11/95.

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

DATED: 15-11-1995

~~ORDER~~/JUDGMENT

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

in

O.A.No.

267/95.

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

No Spare Copy

