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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.562/95

dt.30-6-98

Between

Dr.G. Subrahmanyam
Dr. TRK Reddy

: Applicants

and

1. Union of India, rep.by
the Secretary
Railway Board, Rail Bhavan
New Delhi

2. General Manager, SC Rly.
Rail Nilayam, Secunderabad

3. Dr. PV Krishna Rao
Railway Hospital SC Rly.
Vijayawada

4. Dr. K. Munish Singh
Sr. Medical Supdt., SC Rly.
Secunderabad Divn.
Railway Hospital Lallaguda

5. Dr. K. Jagannatham
Sr. Medical Supdt., SC Rly.,
Railway Hospital, Hubli

: Respondents

Counsel for the applicants

: G.V. Subba Rao
Advocate

Counsel for the respondents

: N.R. Devaraj
SC for Railways
G. Nageswara Rao

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl)

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Order

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member(J)

Heard Sri G.V. Subba Rao, learned counsel for the applicants and Sri N.R. Devaraj for official respondents and Mr. Sastry for Mr. G. Ramachandra Rao for Respondents 3 to 5.

1. There are two applicants in this OA. They are working as Senior Medical Superintendents in the South Central Railways under the administrative control of General Manager, South Central Railways. It is submitted that the next avenue of promotion to them is Senior Administrative Grade and promotion to the said grade is based upon the seniority cum suitability assessed on the basis of ACRs. The General Manager, SC Rlys. published a seniority list dated 28-2-1986, which was based on the merit order of the UPSC and also the date of entry in ADMO Cadre. In the said seniority list the applicant No.1 is shown at Sl.No.53 and the applicant No.2 at Sl.No.59.

2. It is submitted that with effect from 1-1-1973 the applicant as well as respondents 3 to 5 were brought under Group-A Services consequent upon upgradation of the posts of AMOs to that of ADMOs in terms of recommendations of the Pay Commission. It is submitted that even in the grade of ADMOs the applicants continued to be seniors to respondents 3 to 5. They rely upon Railway Board's Circular No.7/72 dated 14-7-1980 which issued amendment to the Recruitment rules of the Indian Medical Service. It is submitted that according to the amended rules the following rules were amended for purposes of promotion to DMO. Promotional

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posts to be filled during a calendar year in the following sequences :

"(a) 66-2/3 per cent from Assistant Divisional Medical Officers (Rs.700-1600) on the basis of common seniority including those possessing post-graduate qualification with 5 years service in the grade rendered after appointment thereto on a regular basis.

(b) 33-1/3 per cent from remaining Assistant Divisional Medical Officers (Rs.700-1600) possessing post graduate qualification with 5 years service in the grade rendered after appointment thereto on a regular basis.

NOTE : (a) Those promoted under (a) above shall be enbloc senior to those promoted under (b) in a calendar year."

3. According to the said rules 75 per cent of the DMO/SMOs were to be filled on promotion as in-service candidates and the 25 per cent by direct recruitment. Promotion to DMO of in-service candidates were made from the cadre of ADMOs on the basis of common seniority including those possessing post graduation qualification with five years service in grade rendered after appointment thereto on regular basis. It is submitted that the rest of 33 1/3 per cent promotion is earmarked to ADMOs possessing post graduation rendered after appointment to Grade II on regular basis. It is also stated that those promoted under (a) above shall enblock senior to those promoted under (b) in a calendar year. It is submitted that the Direct recruitment to the extent of 25% was not resorted to and ipso-facto promotion against existing vacancies was done observing the per centage fixed by the Railway Board in the amended rules. The applicants represented for fixing their seniority as above in the cadre of DMO showing the^m above private respondents. The General Manager vide his letter dated 2-3-1995 conceded to the facts

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made therein. But a distorted version was sought to be projected to the effect that respondents 3 to 5 were given promotion against post graduation quota in 1987. They submit that the applicants as well as the Respondent-5 were brought as on upgraded posts from 1-1-1973 and the South Central Railways cannot take a stand that respondent-3 to 5 were promoted against Post Graduation quota without conforming to the norms of the Recruitment rules.

4. Hence, they have filed this OA to direct the respondents to produce records relating to the proposed empanelment to SAG Cadre of Medical Service without the finalisation of the seniority of the applicants and the respondents 3 to 5 by declaring the proposed consideration of private respondents for the posts of SAG giving them the seniority against post graduation quota which is not provided in the rules as arbitrary, illegal, unconstitutional and violative of Articles 14 and 16 of the Constitution.

5. The applicants have contended as follows :

i) There are no seniority lists of ADMOS issued by the Railway Board known to the applicants wherein they were shown juniors to the respondents. Even today that seniority list is not available. Even in the rejoinder they have not filed a copy of that seniority list. When we asked the respondents for DMOs seniority list, a list was produced before us wherein neither the names of the applicants nor the respondents were available. Seniority list submitted should contain the positions of the applicants and private respondents to find out their relative position. It is not understood why the respondents failed to prepare a seniority list wherein the names of the applicants as well as the private respondents were

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available. When we pointed out the deficiencies, hurriedly they took back that seniority list stating that they would check and submit again.

After repeated adjournments, the respondents filed a note indicating those Doctors who were promoted earlier to the applicants on promotion under seniority cum suitability and against the post graduation quota, and all those who were directly recruited. That position needs examination from the files to ascertain the correctness.

It is not possible for us to go through the records and come to the conclusion that the submission of respondents is in order. This is only a factual verification which can be done by a very senior officer of the Department. To short cut the examination, we gave a copy of that note to the learned counsel for the applicants to check and submit. Once again the applicants are stating that what is shown in the note is not correct and dispute the seniority position.

At this juncture it is probably difficult even for the applicants' counsel to check from his clients as the relevant official records may not be available and this Tribunal cannot also go on the basis of submission of that note. Hence, we feel that the whole issue of seniority has to be reexamined by the Member who is in charge of the Medical Department in the Railway Board, personally, and should give a detailed speaking order in this connection.

ii) The applicants further submit that no other Railways has implemented the promotion quota earmarked against post graduate officials. This has been done only in South Central Railway with a view to assist some of their favourites and because of that the applicants were affected.

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iii) The applicants also submit that in the other Railways no direct recruitment was resorted to. Only this South Central Railway had adopted that recruitment thereby their chances of promotion to DMO had been delayed unnecessarily.

6. All the above contentions are denied by the respondents. The learned counsel for the respondents submits that the rule position has been correctly followed. All the

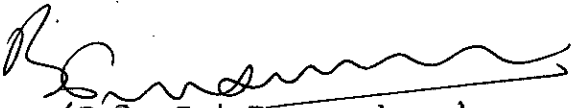
7. All the above submissions of the applicants have to be looked into by the Member incharge of the Medical Department before disposing of the representations.

8.(a) In view of what is stated above, the applicants, if so advised, may submit a detailed representation including the contentions raised in this OA.

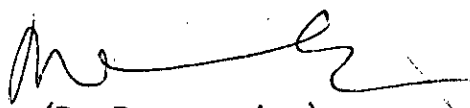
(b) The Member incharge of the Medical Department in the Railway Board, within a period of three months from the date of receipt of a copy of ^{the representation} ~~this order~~, shall dispose of such ^{after} representations if received, personally scrutinizing the case.

(c) The Railway Board shall then send a suitable reply to the applicants, through a speaking order within three months from the date of receipt of the representation.

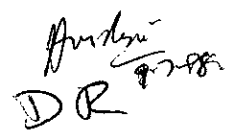
9. The OA is thus disposed of. No costs.


(B.S. Jai Parameshwar)
Member (Judl.)

30.6.98


(R. Rangarajan)
Member (Admn.)

Dated : June 30, 98
Dictated in Open Court


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Copy to:

1. The Secretary, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager, South Central Railway,
Railnilayam, Secunderabad.
3. One copy to Mr. G. V. Subbarao, Advocate, CAT, Hyderabad.
4. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad.
5. One copy to Mr. G. Ramachandra Rao, Advocate, CAT, Hyderabad.
6. One copy to HBSJP, M(J), CAT, Hyderabad.
7. One copy to D. R. (A), CAT, Hyderabad.
8. One duplicate copy.

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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 PARAMESHWAR :
M(J)

DATED:

30/6/98

ORDER/JUDGMENT.

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

in

C.A.NO. 562/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
प्रेषण / DESPATCH

13 JUL 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH