

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD Bench  
AT HYDERABAD.

..

O.A.No.1353/1996.

Date of decision: 17th March, 1999.

Between:

1. V.Vithal Rao.
2. B.Rama Krishna Nair.
3. N.Vijayakumar.
4. B.Nagaiah.
5. D.Ramaswamy,
6. B.Nagabhushanam.
7. D.Vali.
8. B.Thimmappa.

.. .. Applicants.

Andx

1. The Union of India represented by the General Manager, S.C.Railway, Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer, S.C.Railway, Secunderabad.
3. The Divisional Railway Manager (Commercial), S.C.Railway, D.R.M's Office, Guntakal.
4. Senior Divisional Personnel Officer, S.C.Railway, Guntakal.
5. M.Ranganna.
6. B.Sunder Raju.
7. M.Ramachandra.
8. K.Rama Murthy.
9. B.Balaiah.
10. K.Krishna.
11. Md. Usman.
12. M.Gopal
13. M.V.Ramana.

.. .. Respondents.

Counsel for the Applicants: Sri S.Ramakrishna Rao.

Counsel for the Respondents: Sri N.R.Devaraj

CORAM:

Hon'ble Sri R.Rangarajan, Member(A)

Hon'ble Sri B.S.Jai Parameshwar, Member(J)

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JUDGMENT.

(by by Hon'ble Sri R. Rangarajan, Member(A))

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Heard Sri S.Ramakrishna Rao, learned counsel  
for the Applicants and Sri N.R.Devaraj for the res-  
pondents.

There are 8 applicants in this O.A. Out  
of the 8 applicants, Applicant Nos., 1, 4, <sup>and</sup> 5 ~~and~~ 8  
had already been absorbed as regular bearers. Hence  
the O.A., in so far as they are concerned has become  
infructuous and is dismissed in respect of the  
applicant Nos., 1, 4, <sup>and</sup> 5 ~~and~~ 8.

The rest of the applicants viz., 2, 3, 7 and 8  
submit that they were working as Commission Vendors/  
Bearers in Dharmavaram Refreshment Room, Guntakal  
Division. They have given their service particulars  
in para 4(1) of the O.A. The catering Bearers/Vendors  
working with the Contractors were to be treated as  
Government servants in view of the Supreme Court  
Judgment. Accordingly the applicants have to be  
absorbed regularly in Group "D" Posts in the Railways.  
<sup>above mentioned</sup>  
As the/applicants' ~~xxxxx~~ are not taken as regular  
Railway employees, they have filed this O.A.

praying to set aside the impugned letter No. G/C.101/  
Vendors/P dated 14.11.1996, (Annexure A-1/to the O.A.)

calling the juniormost vendors/Bearers for screening  
direction to the Respondents ~~for~~  
test and for consequential/absorption as Vendors/Bearers

as they are the seniors on the basis of the number of days

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Vendors/Bearers. Applicant Nos., 2 and 3 are at Sl.Nos., 23 and 30 of the said list. Hence, it is to be held that Applicant Nos., 2 and 3 are seniors to <sup>the</sup> Applicant Nos., 4 and 5. When the junior applicants Nos., 4 and 5 had already been absorbed, it is not known why the senior Applicant Nos., 2 and 3 were not absorbed. Hence, a direction has to be given to absorb the applicant Nos., 2 and 3 also forthwith within a period of 45 days from the date of receipt of a copy of this judgment.

As regards the applicants Nos., 6, 7 and 8 they are at Sl.Nos. 57, 58 and 112 of the list for absorption and there is no material available to show that their juniors who are below them were absorbed. Hence, a further direction has to be given to the respondents to absorb the applicant Nos., 6, 7 and 8 also in accordance with the rules as and when their turn comes on the basis of their qualification.

In view of what is stated above, the following directions are given:

i) Applicant Nos., 2 and 3 should be absorbed as Canteen Vendors/Bearers or in any other Group "D" Post based on their qualifications etc., within a period of 45 days from the date of receipt of a copy of this Judgment.

ii) The applicant Nos., 6, 7 and 8 shall also

they have worked as Vendors/Bearers and with all consequential benefits. An interim order was passed in this O.A. on 21.11.1996. By this Order, it was directed that "Any appointment made to the post of Vendors as per the Notification No. G/C/101/Vend/P dated 14.11.1996 calling certain employees for screening for the regular post of vendor is subject to the outcome of this O.A."

A reply statement has been filed in this O.A. The main contention of the respondents is that the Commissioned Vendors/Bearers were absorbed on the basis of the seniority. The applicants herein are juniors and they will be considered for absorption as and when their turn comes.

We have asked the respondents as to how the Serial Numbers in which the applicants are placed for absorption and also the details of the applicants who had filed this O.A., in regard to their absorption. An additional reply has been filed in this O.A., wherein the position of the applicants in the list for absorption has been indicated in para 4 of the additional reply. As per the details given, it is seen that the Applicant Nos., 1, 4 and 5 had already been absorbed and these three applicants who had been absorbed <sup>stand</sup> /at Sl.Nos., 10, 39 and 49 of the list for absorption as ~~Contract~~ Canteen

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be absorbed as Canteen Vendors/Bearers or in any other Group "D" post on the basis of their qualifications etc.; as and when their turn comes.

The O.A., in so far as applicant Nos., 1, 4 and 5 is concerned, ~~it~~ has become infructuous as they have already been absorbed and it is dismissed as infructuous.

The J.A., is ordered accordingly.

No costs.

प्रमाणित प्रति  
CERTIFIED TRUE COPY

क्रमांक संख्या  
CASE NUMBER OA 1353/96  
निर्णय दिनांक  
DATE OF DECISION 17.3.98  
प्रति हस्ताक्षर  
COPY MADE BY 26.3.98

सचिव  
Secretary  
Central Administrative Tribunal  
हैदराबाद बेंच  
HYDERABAD BENCH.