

(44)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.276/96

DATE OF ORDER : 12-08-1998.

Between :-

Y.V.Narasimha Rao

... Applicant

And

1. The Divisional Railway
Manager (Personnel),
S.C.Railway, Vijayawada.
2. The Chief Personnel Officer,
S.C.Railway, Rail Nilayam,
Sec'bad.
3. The Union of India,
rep. by the Secretary, Railway Board,
Rail Bhavan, New Delhi.
4. B.Ramachandra Rao

... Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri V.Bhimanna, SC for Rlys

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).



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... 2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri G.V.Subba Rao, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondent. Notice has been served on Respondent No.4 but called absent.

2. The applicant in this OA while working as Sr.Clerk applied for the post of Personnel Inspector Gr.III in pursuance of the notification No.B/P.608/IV/I/PIs/Vol.6 dt.13-7-95 (Annexure-III page-15 to the OA). The applicant was not selected. Respondent No.4 had also applied for the post. It is stated that the Respondent No.4 was a senior clerk in the Rayanapadu Workshop and he ^{was} ~~is~~ working as adhoc Personnel Inspector Gr.III under Sr.Divisional Personnel Officer, Bezawada and his ^{was} ~~is~~ lien ^{is} maintained as Sr.Clerk in Rayanapadu Workshop. A written examination was held for the above said post on 24-9-95 and 27-11-95 and viva-voce was held on 6-2-96. Respondent No.4 was selected by the impugned memorandum No.B/P.608/IV PI dt.19-2-1996 for regularising him in the post of Personnel Inspector Gr.III. It is stated that the seniority unit of the senior Clerks of Vijayawada Division and Rayanapadu Workshop are two different units. The respondent No.4 was given notional seniority by adding marks for his seniority in terms of letter No.B/P.608/IV/1/PIs/Vol.6 dt.26-2-92 (Annexure-II page-14 to the OA).

3. This OA is filed for setting aside the letter dt.19-2-96 and 26-2-92 and for a consequential direction to the respondents 1 and 2 to empanel the applicant as per merit order taking into consideration his performance in written as well as viva-voce test

one of the post of Personnel Inspector for which panel was issued on 19-2-96.

4. The panel memorandum dt.19-2-1996 consists of two employees out of which the first employee is Respondent No.4 and other employee is Sri M.Satyanarayana. The applicant submits that the empanelment of Respondent No.4 is irregular as he was awarded seniority marks which is not contemplated in a selection when the panel has to be formed by calling for willingness from different units. The seniority of different units is not one and the same. In the present case, the seniority of senior Clerks of Vijayawada Division and the seniority unit of Sr.Clerk of Rayanapadu Division are two different seniority units. Hence when the question of selection for the post of Personnel Inspector Gr.III is called for by notification dt.13-7-95, the question of allowing notional seniority marks does not arise. For this, he relies on the judgement of the Supreme Court in 1996 SCC (L&S) Vol. II page-890 (M.Ram Jayaram Vs. General Manager, SC Rlys, & Others).

5. Respondents have filed a reply. In the reply they have given the method for selection. It is not disputed in the reply that respondent No.4 was selected granting him notional seniority marks. It is also admitted by the standing counsel for the respondents that the seniority unit of Sr.Clerks of Vijayawada Division is different from seniority unit of Sr.Clerks of Rayanapadu Workshop. The Respondents further submit that the Railway Board instruction circulated under serial Circular No.28/98 has been followed in granting the notional seniority marks to a senior employee and hence the question of challenging the selection of Respondent No.4 on that ground is irrelevant.

6. The only question to be answered in this OA is whether notional seniority marks can be given in case willingness for selection is called for from employees of various departments in different seniority units.

7. The above question had already been answered by the Apex Court in the reported case cited above. In that case a Group-D staff of South Central Railway who applied for the post of Law Assistant was not selected and some other employee was selected giving him the notional seniority marks. The applicant in that case submitted that had the notional seniority marks been given, he could have been selected instead of the other employee for whom the notional seniority mark was given. Apex Court in that case had held that the awarding of notional seniority marks when selections were held calling volunteers from different seniority units is illegal.

8. In view of the decision of Apex Court, the present case also has to be allowed. Respondent No.4 was given notional seniority marks and because of that he was selected. The selection made is from various different seniority units. Hence the selection of respondent No.4 is to be held as illegal and has to be set aside.

9. In the result, the impugned memorandum No.8/P.608/IV/PI dt.19-2-96 is set aside so far it relates to Respondent No.4. The respondents are directed to prepare the fresh panel of Personnel Inspector Gr.III in pursuance of the notification dt.13-7-95 on the basis of the marks obtained in the written test and viva-voce test of the employees who responded to the notification without

Copy to:

1. The Divisional Railway Manager, (Personnel),
South Central Railway, Vijayawada.
2. The Chief Personnel Officer, South Central Railway,
Railnilayam, Secunderabad.
3. The Secretary, Railway Board,
Rail Bhavan, New Delhi.
4. One copy to Mr. G.V. Subba Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Shimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

26/8/98
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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 PARAMESHWAR :
M(J)

DATED: 12/8/98

ORDER/JUDGMENT

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

in

C.A.NO. 276/96

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

