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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.277 of 1996.

Date of Order:- 17.8.1998.

Between :

R. Chakrapani, s/o R. Rajaiah,
aged 43 years, Shroff,
D.C.Cash Office,
South Central Railway,
Secunderabad.

... Applicant

And

1. Chief Cashier,
South Central Railway,
Secunderabad.
2. Financial Adviser & Chief
Accounts Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Secretary,
Railway Board,
Rail Bhavan,
New Delhi.

... Respondents

Counsel for Applicant ... Mr. G.V. Subba Rao.

Counsel for Respondents ... Mr. V. Rajeswara Rao, CGSC

CORAM :

THE HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

THE HONOURABLE MR. B.S.JAI PARAMESHWAR, MEMBER (JUDICIAL)

O R A L O R D E R.

(Per Hon. Mr. R. Rangarajan, Member (A))

Heard Mr. G.V. Subba Rao, for the applicant and
Mr. V. Rajeswara Rao for the respondents.

2. The applicant in this O.A. was promoted as Shroff from the Group 'D' cadre. A notification bearing No.AOP/A01/Pt.III dated 30.3.1995 was issued for forming of a panel for the post of Sr. Shroff. The applicant was called for the test, but he was not selected. 9 candidates were selected and empanelled for the post of Sr. Shroff comprising 8 O.C. candidates and one S.C. candidate. The panel was formed vide No.ACP/A07 dated 12.2.1996. The names of 9 employees were kept in the panel and the applicant's name was not found in the panel.

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3. This O.A. is filed to set aside the notification dated 30.3.1995 and the empanelment list dated 12.2.1996 by holding them as illegal and arbitrary and for a consequential direction to the respondents to promote the applicant to the post of Senior Shroff in scale of pay of Rs.1200-2040(RSRP) in the Cash Office of South Central Railway, Secunderabad by declaring it as a non-selection post as per the Indian Railway Establishment Manual.

4. The main contentions raised by the applicant are as follows :

1. The post of Senior Shroff is a non-selection post as per the Indian Railway Establishment Manual. Hence conducting a selection for empanelment to the post of Senior Shroff is illegal.

2. The question papers had leaked out. Hence the examination is void.

4. The applicant in spite of the fact that he submits that the post of Senior Shroff is non-selection post, he appeared himself for the selection and underwent the written test. If it is a non-selection post, and there should not be any selection for the same, he should have challenged the same initially. Since he has appeared in the written test and failed in the said test and was not called for the viva voce test, he challenges the notification dated 30.3.1995 and empanelment list dated 12.2.1996 now. Even though on that score itself, the application is liable to be rejected, we thought it proper to consider the contentions raised by the applicant and pass an order on merits.

5. The first contention of the applicant is that the post of Senior Shroff is a non-selection post, as indicated in the Indian Railway Establishment Manual. We asked the learned counsel for the applicant to quote the para number of the IREM. Though he has quoted numbers of paragraphs of IREM as 169 and 170 etc., but nowhere it is stated that the post of Senior Shroff is to be filled up by non-selection. Hence

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there is no reason to come to the conclusion that on the basis of the IREM the post of Senior Shroff is to be treated as a non-selection post.

6. The respondents have filed a letter bearing No.P/535/Accts (C&P) dated 12.3.1980 (Annexure-R-II). Enclosed to that letter is a revised chart of channel of promotion of Class III staff of Cash and Pay Department of South Central Railway. In that the post of Senior Shroff is shown as a selection post. The above classification has been indicated on the basis of the Railway Board's letter No.E(NG)I-78/PMI/253 dated 12.9.1979. Hence the contention of the applicant that the post of Senior Shroff is a non-selection post is found to be not correct.

7. Learned counsel for the applicant submits that if the first post is to be filled by selection, the next immediate post is to be filled up by non-selection. When the post of Shroff which is a feeder cadre post is to be filled up by selection, the post of Senior Shroff which is a higher one should be filled up by non-selection. No material has been produced before us in support of that contention. Mere assertion that it is a non-selection post as its lower post is a selection post cannot be sustained.

8. The learned counsel for the applicant produced a letter addressed to the General Secretary, S.C.R. Mazdoor Union, Secunderabad bearing No.P(L) 694/G/2/Vol.V dated 11.5.1979 issued by the General Manager, S.C.Railway, Secunderabad asking for the views of the organisation for filling up the posts of Divisional Cashier(Pay) / Assist.Chief Cashier (Cash) either by selection or non-selection. In this letter, the post of Senior Shroff is shown as non-selection and seniority-cum-suitability. But that is only a letter asking for the views of a Union. It is not a letter confirming that the post of Senior Shroff is to be filled up by non-selection. The letter addressed to the Union is dated 11.5.1979 whereas the letter dated 12.3.1980 clearly states that the post of Senior Shroff is a selection post. This letter is later than

the earlier letter dated 11.5.1979. Hence it has to be taken as a confirmed decision to treat the Post of Senior Shroff as a selection post on the basis of the letter dated 12.3.1980 and other material available on record. Hence the letter dated 11.5.1979 addressed to the Union may not also come to the rescue of the applicant to grant him the relief.

9. If the applicant is aggrieved by the fact that the post of Senior Shroff is treated as a selection post, then he should have challenged the letter dated 12.3.1980 on various grounds and also asked for the details of the Railway Board's letter dated 12.9.1979. But the applicant has not challenged the letter dated 12.3.1980. Hence the existence of the letter aforesaid is to be taken note of for deciding this issue.

10. The applicant submits that the question papers ^{had} leaked. It is not understood on what basis he says so. His mere statement that the question papers had leaked cannot be a reason for setting aside the written test unless otherwise the same is conclusively proved or documents produced in that connection. As nothing is available on record, this contention has to be rejected.

11. Though it is a selection post and there were 9 vacancies, only 9 employees had been called for selection. For selection of a post, the required number of employees to be called for is 3 times of the number of vacancies. It has been stated that there were only 9 vacancies available and all the 9 Shroffs were called for the selection. Hence there is no irregularity in calling the 9 employees only for the selection.

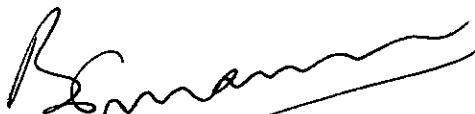
12. Lastly, the learned counsel for the applicant submitted that the employees empanelled should have put in a minimum 2 years of service in the post of Shroff for consideration for the post of Senior Shroff. For that, he produced a copy of the Personnel Branch of the Sl. Circular No. 31/87 dated 12.3.1987. We have perused

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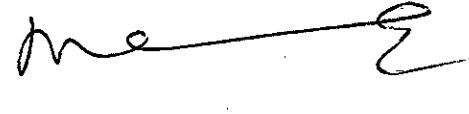
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the said serial circular. It has been clearly stated in para 2(3) that the condition regarding minimum service has to be fulfilled at the time of actual promotion in the same manner as in the case of "Safety categories". This does not debar the respondents to call for the employees for selection for empanelment. Only when the question of actual promotion arises, then 2 years of service in the lower category has to be insisted upon. Hence, no irregularity has been committed if some of the empanelled employees had not completed 2 years of service as Shroff. But they are to be promoted as Senior Shroff only after they completed 2 years of service as Shroff and empanelled in the selection list.

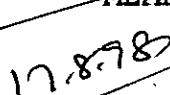
13. In view of the foregoing discussions, we find no merits in this O.A. Accordingly the O.A. is dismissed.
No costs.

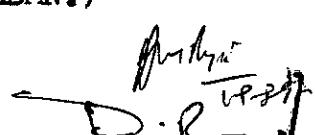

(B.S.JAI PARAMESHWAR)

MEMBER (JUDL.)


(R. RANGARAJAN)

MEMBER (ADMN.)

 Dated the 17th day of August, 1998.
Dictated in Open Court.


D.R.

DJ/

DA. No. 277/96

Copy to :-

1. The Chief Cashier, South Central Railway, Secunderabad.
2. The Financial Adviser & Chief Accounts Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. The Secretary, Railway Board, Rail Bhavan, New Delhi.
4. One copy to Mr. G.V. Subba Rao, Advocate, CAT., Hyd.
5. One copy to Mr. V. Rajeswara Rao, CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyderabad.
7. One copy duplicate.

SRR

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278/98

II COURT

TYED BY
COMPARED BY

CHECKED 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: 17/8/98

ORDER/JUDGMENT

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

in
C.A.NO. 277/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ग्रेन / DESPATCH

24 AUG 1998

हैदराबाद आयोगीट
HYDERABAD BENCH