

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.282 of 1996

DATE OF ORDER: 16th SEPTEMBER, 1998

BETWEEN:

Mr.RAGHU

.. APPLICANT

AND

1. The Senior Divisional Personnel Officer,
Divisional Office,
Personnel Branch, S.C.Railway,
Guntakal,

2. The Divisional Railway Manager,
South Central Railway,
Guntakal.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.M.N.NARASIMHA REDDY

COUNSEL FOR THE RESPONDENTS: Mr.J.R.GOPALA RAO,ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, Member (Judl.)

JUDGEMENT

(ORAL ORDER PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

Heard Mr.M.N.Narasimha Reddy, learned counsel for the applicant and Mr.J.R.Gopala Rao, learned standing counsel for the respondents.

2. A Notification No.G/P.676/11/TCs/Change/Vol III, dated 10.5.95 was issued for change of category as Ticket Collector in the scale of pay of Rs.950-1500 against 16 2/3% quota from non technical categories. The name of the applicant, in the inter se seniority list of those called for the interview, stands at Sl.No.2. It is stated

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in the notification dated 10.5.95, ^{it was mentioned} that no supplementary screening will be held under any circumstances. A list of seven candidates who were taken as Ticket Collectors has been issued by the memo No.G.P.676/II/TCs/Change/Vol.III dated 14.6.95 (Annexure II at page 9 to the OA). The name of the applicant was not found in that list. Subsequently, by the memo No G/P 676/II/TCs/Change/Vol III dated 14.12.95, 8th candidate, namely, Mr.R.Somasekar Rao was included as an empanelled candidate for posting him as Ticket Collector.

3. The applicant submits that he had submitted a representation. No reply has been given for that representation.

4. This OA is filed praying for a direction to the respondents to consider the case of the applicant for change of his category to the Ticket Collectors' cadre in the scale of pay of Rs.950-1500 against 16 2/3% quota earmarked for non-technical category as the juniors to the applicant were selected and two of the posts are still vacant and he be sent for training for the post of Ticket Collector forthwith.

5. A reply has been filed in this OA. It is to be stated that the reply has been filed without examining the full aspects of this case. There are many errors in the reply. We are unhappy to note that the respondents' organisation had not taken any care while filing the reply to the OA.

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6. Three main contentions were made by the applicant in this OA. They are-

(i) The applicant stands at Sl.No.2 in the integrated seniority list of those who volunteered for the post of Ticket Collector pursuant to the notification dated 10.5.95. Hence the respondents had committed an error in not selecting him for that post inspite of his high seniority;

(ii) The applicant belongs to SC community. No reservation has been made for SC and ST. Hence the selection without reservation is improper; and

(iii) In the notification dated 10.5.95, it has been clearly stated that no supplementary screening will be held under any circumstances. But in the Memorandum No.G.P.676/II/TCs/Change/Vol.III, dated 14.6.95 (Annexure A-II at page 9 to the OA), it is stated that the empanelment for the remaining one vacancy i.e, 8th vacancy will be done after conducting supplementary screening for one absentee. The applicant submits that the 8th employee included in the panel was screened later thereby violating the instructions laid down in the memo dated 10.5.95 and this is also evident in view of the remark made in the memo at Annexure II.

7. We have examined the above contentions. Even if the applicant is possessing higher seniority and was placed at Sl.No.2 in the integrated seniority list, he can be taken as Ticket Collector only if he passes the screening

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test. It has been clearly stated in the reply that the applicant was not found suitable for that post. Hence the question of empanelling him does not arise on that score itself. The applicant further submits that it was done with malafide intention to include the 8th candidate in the panel. If so, the applicant should have brought out clearly the malafides attributable to the Selection Committee Member and that Member should have been impleaded as a private respondent in this OA. But this is not done. Hence this allegation cannot be taken ~~at~~ the face value.

8. The applicant submits that there is no reservation for the post of Ticket Collector. Hence it infringes the provisions of Constitution of India. If that be the case, when the notification dated 10.5.95 was issued without indicating reservation, the applicant ~~should~~ have challenged that notification. Without doing so, he had submitted himself to the notification and when he failed to get selected he had filed this OA with the above contention. Hence the applicant having submitted himself to the selection, cannot challenge that selection for non-provision of reservation. The applicant submits that when the screening took place for the same grade from non-technical category to Ticket Collector, the respondents should have resorted to reservation also. It is not known under what rule he is submitting so. The post to be filled is in the same grade of Rs.950-1500. It is only a transfer from one seniority unit to another seniority unit. In such circumstances, whether reservation is necessary or not can be decided only on the basis of a rule. The applicant has not quoted any rule to say, even if transfer is from one

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seniority unit to another seniority unit in the same scale of pay, reservation is necessary. In view of the above position, the applicant failed to quote any rule in this connection and hence this contention is to be rejected.

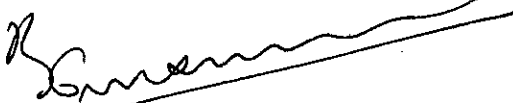
9. The applicant further submits that supplementary screening was done to empanel 8th candidate. In order to check up whether supplementary screening was conducted or not, we called for the selection proceedings. We find 8th candidate empanelled, Mr.R.Somasekar Rao, was also screened on the same date at the first instance on 8.6.95 and he was found suitable. For some unknown reasons, his name was not included in the panel. The respondents failed to issue the panel correctly in the first instance itself. To cap it, they have ^d stated that remaining one vacancy will be done after conducting supplementary screening for one absentee. No absentee was screened subsequently. Mr.Somasekar Rao who was screened in the first instance was empanelled as 8th candidate. Hence it is to be held that no supplementary screening has been done though it is quoted wrongly in the memorandum dated 14.6.95 (Annexure II at page 9 to the OA). The respondents are very careless in issuing the empanelled list. Because of that carelessness, the applicant was forced to come to this Tribunal by filing this OA. We deprecate the action of the respondents in not issuing the memorandum with accuracy. The officer who approved that memorandum should be held responsible for the error and he should be taken up suitably in accordance with law. As, in our opinion, the applicant was forced to come to this Tribunal due to the error committed by the respondents, we award a cost of Rs.500/- payable to the

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applicant by the respondents within a period of 15 days from the date of receipt of a copy of this order.

10. In view of what is stated above, we find no merits in this OA. Hence the OA is dismissed. However, the respondents should pay the cost of Rs.500/- to the applicant within a period of 15 days from the date of receipt of a copy of this order, ^{for} ~~due~~ to the error committed by them which resulted forcing the applicant to come to this Tribunal. (The selection proceedings were perused and returned).



(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

16.9.98



(R. RANGARAJAN)
MEMBER (ADMN.)



DATED: 16th September, 1998
Dictated in the open court

FORM NO. 20

Sec Rule 111 (c)
Bill of Costs

(To be annexed to the order)

~~D.A./A.A/C.P/M.A.~~ No. 282 /96

Costs awarded to applicant Sri Raghu /Respondents-

No. and payable by Applicant No.	Respondents No.
(i) Legal Practitioner's fee ...	Rs. 500 - 00
(ii) Expenses ...	Rs.
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Total	Rs. 500 - 00
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[Signature]
(Signature)
DEPUTY REGISTRAR

Note: No bill of costs need be prepared or annexed,
if costs are not awarded.

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Copy to:

- 1. The Senior Divisional Personnel Officer,
Divisional Office, Personnel Branch,
South Central Railway, Guntakal.
- 2. The Divisional Railway Manager, South Central Railway,
Guntakal.
- 3. One copy to Mr. M. N. Narasimha Reddy, Advocate, CAT, Hyderabad.
- 4. One copy to Mr. J. R. Gopala Rao Addl. CGSC, CAT, Hyderabad.
- 5. One copy to D. R. (A), CAT, Hyderabad.
- 6. One duplicate copy.

YLKR

16/10/98 (7)

II COURT

TYPED 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 S.S. JAI PARAMESHWAR :
M(J)

DATED: 16/9/98

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

in

G.A. NO: 282/96

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH
24 SEP 1998
HYDERABAD BENCH

CO II
Check the cost part of the
order
Put up memo of costs