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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.462 OF 1996.

DATE OF ORDER: 27-8-1998.

Between:

1. K.Venkataramana Reddy.
2. V.Ashok Kumar.
3. B.Mohammad Asif.
4. <sup>M. Nagash</sup> Syed Khaja Hussain.

.. Applicants

q n d

1. The General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,  
South Central Railway, Rail Nilayam,  
Secunderabad.
3. The Chief Mechanical Engineer,  
Carriage Repair Shop, Personnel Branch,  
Tirupathi, Chittoor District.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.P.Sridhar Reddy

COUNSEL FOR THE RESPONDENTS: Mr.D.F.Paul

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A) )

Heard Mr.P.Sridhar Reddy for the Applicant and  
Mr.D.F.Paul for the Respondents.





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2. There are five applicants in this OA. Employment Notice bearing No.1/91 was issued by Proceedings No.TR/P.Con/Rec.Gr.'D', dated:17-6-1991 (Annexure.A-V, Page.17 to the OA) for recruitment of Artisan Khalasis in the scale of pay of Rs.750-940/- to the extent of 40 vacancies. The communal reservation has been indicated in that notification. It is stated that the applicants were called for the test for Interview by letter No.TR/P.-Con/Rec/Gr'D', dated: 20-9-1991. The applicants attended the interview but no panel was published. The applicants issued a Lawyer's Notice dated:19-12-1995 for publication of their results and absorbing the applicants on the basis of the publication of the results. It is stated that no reply has been given to that Lawyer's Notice.

3. This OA is filed to finalise the selection processed on the basis of the Employment Notice No.1/91, dated:17-6-91 and on that basis fill up the 40 vacancies of Khalasis as per the Railway Board's letter dated:25-8-1994 (Page.9 to the OA).

4. No reply has been filed in this OA. However, the applicants' Counsel had received the reply. It is not understood <sup>Reply</sup> ~~that~~ why this was not filed in the Tribunal. Probably the Registry might have raised some objections because of that it would not have been taken on record. It is the responsibility of the respondents-Organisation to ensure that the objections raised are complied with and the reply has been taken on record. Unfortunately, no such action appears to have been taken by the respondents-Organisation through their learned Counsel and because of

that the reply was not taken on the file of this Tribunal in this OA. Such lapse should be avoided by the Respondents. Even though the reply is not available on the file as this is an OA filed in the year 1996, we thought/fit to dispose of this OA after perusing the reply available with the applicants Counsel. We have perused the reply statement filed on behalf of the respondents.

5. The issue of the Employment Notice No.1/91 calling the applicants for Viva Voce have not been disputed by the respondents. However, the respondents submit that the Railway Board ~~put~~ imposed a ban for recruitment of Grade-'D' staff. Hence the interview held in the year 1991 was not finalised and the results <sup>were</sup> not published. It is also stated in the reply that the Railway Board had issued orders/approval to fill up the 40 posts of Khalasis, vide their letter dated: 25-8-1994 and in view of the change in the scenario compared to 1991 the Chief Mechanical Engineer and Chief Personnel Officer, on examining the issue had decided that there is no requirement of staff at Carriage Repair Workshop, Tirupathi. Owing to the decision, the panel was not published till date.

6. However, the applicant made an allegation that the respondents are taking steps to regularise some of the substitutes and also appointing some of the skilled Artisans earlier selected against the Khalasi ~~vacancies~~. That contention is replied by the respondents stating that no candidate selected against the ~~skilled~~ artisans <sup>by</sup> ~~were~~ appointed as Khalasi in the Tirupathi Workshop. The direct recruitment of artisans against 25% quota is filled by the selected artisan candidates. However, in a selection of artisans, the selected candidates could not be absorbed and they were given choice

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to be absorbed elsewhere in the Divisions outside the Tirupathi Shop. That cannot be shown as irregularity in appointing selected Artisans candidates as Khalasis as they were not appointed in Thirupathi Workshop. However, it is stated that the respondents were making efforts to absorb the substitutes who are waiting for absorption on completion of prescribed substitute service and they were screened on 12-9-1995 and absorbed as Khalasis on regular basis and that was issued by letter No.TR/P.467/Genl/Mech, dated: 24-6-1996. Thus the respondents deny the allegation as made out by the applicants indicated above.

7. No doubt even an <sup>emplaeed</sup> candidate cannot demand appointment if the Department is not willing to fill up the post or not to be filled for some other reason. But when the substitutes are posted, it is not understood <sup>why</sup> that the selection ordered by Employment Notice No.1/91 cannot be taken to the logical conclusion and selected candidates appointed against the vacancies. The Railway Board by their letter dated: 25-8-1994 had removed ban for recruitment of Khalasi, it is the local decision of Respondent No.2 and 4 not to fill up the vacancies. But substitutes are regularised against these vacancies as it appears from the reply. But the date of engagement of substitutes and other dates are not indicated in the reply. The reply in regard to the absorption of substitutes in the Tirupati Workshop is very vague and gives us no clue as to why they were appointed in preference to the selected employees in pursuance of the Employment Notice No.1/91. If the substitutes were in position on the day when the applicants underwent the Interview then there may be a reason for regularising them first as they <sup>were</sup> already in service. But if they were appointed as substitutes later than that date then

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the applicants who were ~~employed~~ <sup>unpanelled</sup> could have been taken as substitutes instead of taking a substitute from outside without following the ~~extended~~ <sup>existing</sup> procedure. As the reply is not very clear in this aspect, we left with no other alternative except to give the following direction:-

If the substitutes who were screened on 12-9-95 and absorbed were actually in position on the crucial date when the applicants were interviewed then that number of substitutes <sup>appointed</sup> can be deducted from the 40 vacancies for filling up. If the substitutes were engaged later, then the respondents cannot regularise them when the regularly selected candidates for which panel is yet to be published is available for engaging <sup>them as</sup> ~~substitutes~~ <sup>regular</sup>. In that case, all the 40 vacancies are to be filled by the ~~respondents~~ <sup>candidates who were</sup> selected in pursuance of the Employment Notice No.1/91. In that ~~which~~ case the panel should be published now and action taken accordingly. It may be possible that there may not be any vacancy to absorb the <sup>new</sup> candidates. In that case the panel should be kept alive till such time all the candidates selected as per Employment Notice No.1/91 is exhausted.

8. The respondents in their reply submit that it is a belated application. We do not subscribe to that view. The applicants underwent the interview. If the selection is to be cancelled, then the respondents should have issued a Notification cancelling the earlier Employment Notice No.1/91. That they did not do. The applicants were waiting

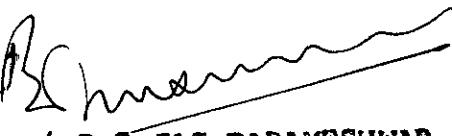
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for issue of the panel and absorption on that basis.  
Even <sup>when</sup> the applicants issued a Lawyer's Notice, the respondents failed to reply them suitably. Hence the contention of the respondents that it is a belated application cannot be upheld as no panel has been issued or no order cancelling Employment Notice No.1/91 was issued.

9. The O.A. is ordered accordingly. No costs.

  
( B.S.JAI PARAMESHWAR )

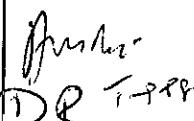
27.8.91 MEMBER (JUDL)

  
( R.RANGARAJAN )

MEMBER (ADMN)

Dated: this the 27th day of August, 1998

Dictated to steno in the Open Court

  
DR 1-918

\*\*\*  
DSN

Copy to:

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
3. The Chief Mechanical Engineer, Carriage Repair Shop, Personnel Branch, Tirupathi, Chittoor District.
4. One copy to Mr. P. Sridhar Reddy, Advocate, CAT, Hyderabad.
5. One copy to Mr. D. F. Paul, CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

8/9/98

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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: 27/8/98

ORDER/JUDGMENT

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

in  
C.A.NO. 462/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COST  
YLR

केन्द्रीय प्रशासनिक आयोग स्थापना  
Central Administrative Tribunals  
प्रेषण / DESPATCH

F-7 SEP 1998

हैदराबाद स्थापना बैठक  
HYDERABAD BENCH