

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH 51  
AT HYDERABAD

OA.50/96

dt.18-8-1998

Between

1. G. Sreenivasa Rao  
2. V.S. Rama Raju  
3. S.V. Suryanarayana Raju  
4. S. Joga Rao

: Applicants

and

1. Union of India,  
rep. by its Genl. Manager  
SC Rly., Rail Nilayam  
Secunderabad

2. Chief Personnel Officer  
SC Rly, Rail Nilayam  
Secunderabad

3. Sri P. Srinivasa Prasad  
Junior Engineer  
Carriage and Wagon  
Working at Bellampalli  
Secunderabad Divn.,  
SC Rly, Bellampalli

: Respondents

Counsel for the applicants

: N. Rama Mohan Rao  
Advocate

Counsel for the respondents

: N.R. Devaraj  
SC for Railways

Ceram

Hon'ble Mr. R. Rangarajan, Member(Admn.)

Hon'ble Mr. B.S. Jai Parameshwar, Member(Judl.)

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## Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Mr. Siva for Mr. N. Rama Mohana Rao for the applicants and Mr. N.R. Devaraj for the respondents. Notice served on R-3. Called absent.

1. There are four applicants in this OA. They were all Direct recruits recruited for the post of Junior Engineer-II (Carriage and Wagon) (JE-II C&W) through open market. After due process of recruitment the Railway Recruitment Board had supplied a panel indicating the names of the candidates recruited for that post. The said panel was issued on the basis of Employment notice No.5/90 (Annex.6). All the four applicants <sup>were</sup> placed at Sl.No.1, 2, 3, & 4 of the said panel. Respondent-3 was also recruited through the same Employment notice and was also empanelled and he was placed at Sl.No.6 in the panel issued on 30-8-91 (Annex.6).

2. It is stated that the applicant-1 was allotted to Vijayawada Division whereas Applicants-2, 3 & 4 were allotted to Guntakal Division. Respondent-3 was sent to Secunderabad Division.

3. Before appointing them in the said Divisions certain procedural formalities have to be adhered to. The procedural formalities include creation of trainee-reserve posts and getting clearance in regard to character and antecedents from the State authorities.

4. Applicant No.3 who was sent to Secunderabad Division got those clearances viz. creation of trainee posts and clearance from the State authority earlier to Applicants 1, to 4 herein. In view of that Respondent-3 was sent to ~~of~~ training

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and earlier to the applicants had joined the post earlier to them i.e. on 19-12-1992. The applicants-1, to, 4, who were sent to Vijayawada and Guntakal ~~were~~ were appointed subsequently due to delay in creation of trainee-posts as well as obtaining clearance from the State authorities in regard to their character and antecedents. Applicant-1 after getting necessary clearance was sent for training and joined working posts as JE-II(C&W) on 1-6-93 whereas the applicants 2,3 and 4 joined on 28-6-1993. Thus all the applicants joined much later about six months to the working posts compared to Respondent-3. Respondents submit that the delay in appointing Applicants 1 to 4 to working posts was not intentional. It was due to delay in finalising the formalities required for sending them for training and posting them in working posts after completion of training. Respondent-3 was appointed earlier as procedural formalities <sup>were</sup> completed quick due to his posting at Secunderabad. Hence he joined earlier to the applicants.

It is also admitted fact that all the four applicants had passed the training course in the first instance and also obtained higher marks than Respondent-3 in the training. Even then they cannot be shown senior to Respondent-3 on the basis of the panel position as they joined the working post much later than Respondent-3 for reasons stated above.

5. JE-II (C&W) in the scale of Rs.2000-3200 are eligible for appearing for selection to the Group-B post of Asstt. Mech. Engineer by promotion. Hence, ~~provisional~~ integrated seniority list was issued on 9-5-1994 (Annex.13) and all the four applicants were shown juniors to Respondent-3 in view of the fact that the applicants had joined the working post later than Respondent-3. It is stated that the

provisional combined seniority list of 9-5-1994 has been objected to by the applicants but it is not known whether the provisional seniority list of 9-5-1994 has been made final. By memorandum dated 15-9-95 the story repeated and in the memorandum dated 17-5-1995, it is stated, that the names of the applicants did not find a place in that list. But it is not known whether the provisional seniority lists had been made final or not on the basis of the objection raised from the employees in those lists.

6. Be that as it may, it may not be necessary at this stage to consider with regard to finalisation of provisional seniority list. A direction has to be given in this OA as to how the seniority of all the applicants have to be finalised. Respondent-3 has to be shown in the seniority list on the basis of the final direction.

7. This OA is filed praying for a direction to the respondents to place all the four applicants herein above Respondent-3 in the seniority list and on that basis consider them for higher promotion viz. JE-I(C&W) and to the post of Assistant Mech. Engineers.

8. The respondents in their reply have stated that once candidates were allotted to various Divisions it is the Division who should take further action for creation of trainee reserve posts and send them for training and if they <sup>are</sup> successful in training they have to be appointed in the Division against vacant post in accordance with rules. Their seniority in the cadre of JE-II(C&W) thereafter lies on the date of entry into that grade. As the applicants had joined the working post much later than Respondent-3 they cannot be shown senior to Respondent-3 in the integrated

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seniority list even though they were placed in the merit list of Railway Recruitment Board above Respondent-3.

9. The main point for consideration in this OA is whether the delay caused in creation of trainee posts and obtaining clearance from State authorities and sending them for training and appointing them thereafter on a later date can erode away the merit position given by RRB in fixation of seniority of the applicants in the integrated seniority for consideration for promotion to a post controlled by the Headquarters office.

10. No doubt the applicants are borne in the seniority list of the Division and that seniority list is not a common one to that of Respondent-3; but can Headquarters office leave the entire issue to the division concerned for appointing them in a regular posts without creating trainee posts and getting clearance from the State authorities. The Chief Personnel Officer of the Railways when he gets the panel from RRB should create the Trainee posts as the vacancies to be filled are regular and the applications were invited on that basis. It is not understood why each division should take steps for creation of trainee posts as these are only procedural matters that can be settled by Respondent-2. It is for the Chief Personnel Officer to create trainee posts in consultation with his Associated finance and inform the Division in regard to the availability of the trainee posts in each division. Further, obtaining of clearance from State authorities need not be entrusted to the Division. The Chief Personnel Officer can directly correspond with the State authorities and obtain the clearance for the selected candidates, as the number

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of selected candidates are limited and hence may not throw any burden on Respondent-2. After the above formalities are completed Respondent-2 should disburse the selected candidates to various Divisions. If that is followed then there will not be any difficulty in regard to fixation of interse seniority of selected candidates. Unfortunately, the whole formalities to be adopted were left to the divisions and those divisions took their own time to finalise the formalities. This procedure is detrimental to the selected candidates who were selected by RRB and ranking senior in the merit list compared to a junior in that merit list. By the procedure adopted by the Chief Personnel Officer, the Railways had defeated the purpose of merit list issued by RRB.

11. It was submitted by the learned counsel for the respondents that time for obtaining of clearance from State authorities cannot be fixed and hence delay is inevitable. As and when the State authorities give that clearance then only selected candidates can be posted. If a junior got the clearance from the State Authorities he may have to wait unnecessarily till his seniors were given clearance by the State authorities. That will be injurious to a selected candidate even if he is a junior. Hence, the question of sending seniors for training may not be possible.

12. There will be delay in some cases no doubt; but that delay has to be put up with in view of the sanctity of the merit list given by RRB. But the Railways are not left without any other remedy in this connection. Even for safety category posts provision exists to appoint a selected candidate provisionally subject to the clearance given by the State authorities. In such provisional appointment it is made clear that in case a

selected candidate appointed provisionally, if his clearance from the State Authorities is adverse then he will be discharged. Such a procedure can be adopted in this case if necessary clearance from State authorities were not forthcoming within a specific period of 5 to 7 weeks. In that case there would not be any delay in appointing all the selected candidates together adhering to the procedural formalities.

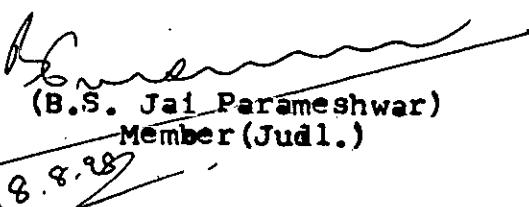
13. Once all the candidates were appointed then they are sent for training. It is the responsibility of the Railways to ensure that the employee selected by a common Select list is sent for training at one go. If that is not possible due to reasons such as non-availability of training, etc. then a batch can be split and senior people sent first and then the juniors. In some cases junior is sent for training first and seniors sent later. That will not stand in the way of senior for getting seniority on the basis of the rules in force. If the senior candidates qualify in the training at the first instance then they should be deemed to have passed the training syllabus in ~~the~~ normal course and their seniority is determined on the basis of select list or on the basis of the marks obtained in the training as the case may be.

14. In view of the above we feel that the applicants had made out a case for getting seniority in the integrated seniority list above Respondent-3.

15. In view of the foregoing the following direction is given:  
 (i) Integrated seniority for promotion of the applicants and Respondent-3 to the higher posts controlled by Headquarters of South Central Railways has to be decided on the basis of the select panel issued by RRB subject to their coming out successful in the training course at the first instance.

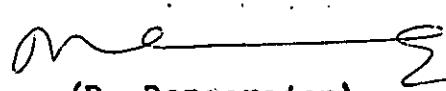
ii) If the seniority is to be decided on the basis of the rank (marks obtained in the training course) then even if the seniors were sent for training later their interse-seniority will be decided on the basis of the marks obtained in the training if they pass the training course in the first instance. ~~The marks obtained by them in the training course~~ ~~if Rules in IREM is to be followed.~~

16. With the above direction the OA is disposed of. No costs.

  
(B.S. Jai Parameshwar)

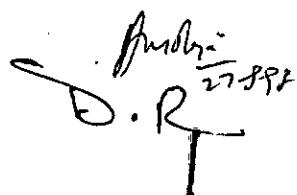
Member (Judl.)

18.8.93

  
(R. Rangarajan)

Member (Admn.)

Dated : August 18, 93  
Dictated in Open Court

  
D.R. 27.8.93

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18/8/98

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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 B.S.JAI PARAMESWAR :  
M(J).

DATED : 18/8/98

ORDER/JUDGMENT

M.A/R.A/C.P.NB.

in  
C.A.NO. 50/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPENSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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