

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

O.A.NO.237/96

Between:

Date of Order: 18.3.96.

G.Bala Sowri

...Applicant.

And

1. The Chief Project Manager,
South Central Railway,
Railway Electrification,
Vijayawada - 520 001.
2. The Chief Personnel Officer,
Head Quarters Office,
Railnilayam,
Secunderabad.
3. The General Manager,
South Central Railway,
Railnilayam,
Secunderabad.
4. The Divisional Railway Manager,
South Central Railway,
Vijayawada - 520 001.

...Respondents.

Counsel for the Applicant : Mr.G.V.Sekhar Babu

Counsel for the Respondents : Mr. C.V.Malla Reddy

CORAM:

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

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OA No.237/96.

Date: 18-3-1996.

J U D G M E N T

X as per Hon'ble Sri R. Rangarajan, Member(Administrative) X

A notification No.B/P:563/Co-ord. dated 16.5.1995 for selection to the post of ASM in the scale of Rs.1200-2040 from serving Graduate Employees against direct recruitment quota for the year 1995-96 was issued by R-2. It is stated in the notification that "it is proposed to fill 400 posts of ASMs in the scale of Rs.1200-2040(RSRP) by calling volunteers from serving railway Graduates working in the grade of Rs.1200-2040 (RSRP), Rs.975-1540 (RSRP) and Rs.950-1500 (RSRP) who are in the equivalent grade or one grade below of ASM grade". The reasons for selection is also indicated as for reducing surplus staff and to release ASMs to Southern Railway and Konkan Railway on request transfer.

2. The applicant joined as Casual Labour on 3.9.1983 under TCI (Telecom Inspector Stores) at Nellore. It is further stated that he was also brought under temporary status. He was also engaged as a Store-mate with effect from 1.1.1985 ~~and~~ in the pay scale of Rs.950-1500, ~~presently~~.

3. The applicant applied for the post of ASM in response to the notification dt. 10.9.1995 quoted above. It is stated that he was sent for medical examination for ascertaining his medical fitness vide office order No.E.252/VVRE/5008 dt. 25.9.1995 and was found fit in that category as seen from the medical department certificate. However, by the impugned letter dt. 25.10.1995/3.11.1995 his candidature has been rejected as "casual labour with temporary status

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are not eligible for ASM selection vide CPO/SC's letter No. (TRG/563/Pro ASM/II dated 27.9.1995. He filed a representation dt. 22.12.1995 for reconsideration of the decision conveyed to him by the impugned letter. No reply is reported to have been given to this representation.

4. Aggrieved by the above, he has filed this OA praying for setting aside the order No.E252/VVRE/3080/Elec. dt. 25.10.95/3.11.95 (A-7) holding it as illegal, arbitrary and without jurisdiction and for a consequential direction to the respondents to permit the applicant to undergo training and Psycho Test at Zonal Training Centre at Moula Ali/Secunderabad for the post of ASM in the scale of Rs.1200-2040 against departmental quota for 1995-96 or subsequent years.

5. The main point for consideration in this OA is whether the Casual Labour who are working even in the grade of Rs.950-1500 and possess degree are eligible for consideration for the post of ASMs as per the notification dt. 10.5.1995.

6. The learned counsel for the applicant submits that in the notification dt. 10.5.1995 there is no whisper in regard to the ineligibility of the Graduate Casual Labour who are in the grade of Rs.950-1500 for applying in response to the notification. When he was found fit as per the notification and sent for medical test the authorities are estopped from rejecting his candidature under some reasons or other. He further submits that casual labourers with long-standing have to be absorbed in the scale of pay in which they are working as directed by the Apex Court and the Calcutta Bench of the Tribunal and hence absorbing him as ASM on the basis of the



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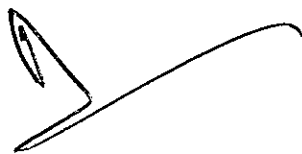
notification dt. 16.5.1995 is permissible.

7. The notification for selection to the post of ASM in the scale of Rs.1200-2040 dated 10.5.1995 clearly indicates that the volunteers who are serving graduates working (in) the grade of Rs.1200-2040, Rs.975-1540 and 950-1500 or equivalent grade are eligible for applying for the post of ASM. It is not in controversy that the applicant is a casual labour and it is also not in controversy that he is in the grade of Rs.950-1500 as a Casual Works-mate. There is no doubt about his status in Railway. It is admitted that he is not a regular railway servant in the railways but only a casual mate.

8. The notification dated 10.5.1995 is very clear in that only the serving graduates can apply for this selection for the post of ASM. The interpretation of serving graduates is that those who are regular servants and possess degree can only apply for the post of ASM and not the casual labour, temporary status casual labour even if they are holding a post of Rs.950-1500 and are Graduates. The learned counsel for the applicant submitted that as master servant relation exists between a casual labour and the respondents he is entitled to be considered for the post of ASM even if he is not a regular employee.

9. The word serving graduate clearly indicate that only a regular railway servant can apply for that post. Even if the master servant relation is assumed to exist it cannot give the applicant any right to be considered for selection for the post of ASM if he is not a regular railway servant.

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10. The purpose for which the notification dt. 10.5.95 was issued indicates to reduce the surplus staff and to release the ASM to Southern Railway and Konkan Railway as per the request transfers. If there is surplus casual labour staff it can be easily worked of by retrenching them if there is no work after paying the compensation as per the provisions of ID Act. But the regular staff if found surplus they are to be re-deployed against existing vacancies in the other departments. Hence, the term of serving graduates in the present context of the notification means staff of regular capacity who are in excess of to the requirement and in no way mean that the reduction of casual labour staff who are surplus to the requirement. Hence, the interpretation of serving graduates as serving regular graduates staff in view of the above need not be overemphasized. It is also seen that the notification is meant to release ASM to Southern Railway and Konkan Railway who had requested to go to those Railways. If so, the serving staff with experience in the Railway working has to be posted against the posts fallen vacant due to request transfers. The casual staff will not have the skill for working as ASM and also the awareness required for selecting them as ASMs as per the notification. Only a regular staff who have been recruited on the basis of the rigorous process of selection and who had qualified in the departmental examination are to be posted against the vacancies created by releasing the ASMs on request transfers. On the basis of this also the serving graduates should be interpreted as only a regular railway employee and not as a casual labour even if he is a graduate


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and is in the grade indicated in the notification. The casual staff are appointed on the basis of the exigencies of service without subjecting them to any rigorous selection and they are selected on the basis of calling limited volunteers which cannot be treated as equivalent to selection of the staff on the basis of the notification widely published. Hence, this contention cannot be upheld.

11. The second contention is that the Apex court and the Calcutta Bench of the Tribunal had directed to absorb the casual labour who had put in long years of service in that grade in which they are working. He relied on the judgment of the Apex Court reported in [1992(4) SCC 118 - State of Haryana and Ors. Vs. Piara Singh and Ors.]. A reading of this judgment will indicate that a direction was given to absorb the applicant in that reported case by framing a scheme of absorption in a fair and just manner providing for regularisation of those persons having regard to their length of service and other relevant conditions. It does not state that any employee who had put in long years of service had to be absorbed in the scale in which they are working as a casual labour. Even in the present case there is no prayer in this OA for regularising his services as a Stores-mate. Hence, I do not see any comparison between this case and the reported case. If the applicant is aggrieved by not regularising his services in the railways in the grade in which he is working now he can file a suitable OA in accordance with the rules for redressal of his grievances. The reported cases of the Apex court and the

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Calcutta Bench of the Tribunal does not give him any prescriptive right to be considered for the selection to the post of ASM as per the notification dt. 10.5.1995.

12. The third contention of the applicant is that he is discriminated vis-a-vis the other regular railway servants even though he possessed the required qualification for consideration for the post of ASM in the scale of pay of Rs.1200-2040. It has been made very clear in the foregoing paragraphs that the notification is meant only for regular railway servants possessing the requisite qualification as mentioned in the notification. The applicant even if he possess the required qualification cannot equate himself with that of a regular railway servant possessing the qualification of degree as he is only a casual labour. Hence, I do not see any discrimination in the case of the applicant to attract the provisions of Articles 14 & or 16 of the Constitution.

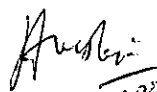
13. In view of the above, I do not see any merit in this OA and hence the OA is dismissed at the admission stage itself. No costs.



(R.Rangarajan)
Member (Adm.)

Dated 18th March, 1996.
Dictated in open court.

Sd/Grh.


Dy. Registrar (J)

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