

(43)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 315 OF 1996

Dated, the 11th September, '98.

BETWEEN :

1. B.S. Prakasa Rao	10. V. Bhaskara Rao
2. K. Papiah	11. S. Narayana
3. G. Narayana Rao	12. MV Prasada Rao
4. M. Ra Murthy	13. A.N. Dora
5. P.V. Ragavayya	14. G. Venkata Rao
6. V. Narayana Rao	15. M. Adinarayana
7. P.V.R. Joga Rao	16. A. Sadhu Rao
8. K. Veerabhadra Rao	17. R. Narasinga Rao
9. G. Balaramaswami	

... Applicants

A N D

Union of India - Rep. by :

1. General Manager, S.E. Rly. Calcutta-43
2. Chief Mechanical Engineer, S.E.Rly. Calcutta-43.
3. Divisional Railway Manager, S.E.Rly. Visakhapatnam.
4. Senior Divisional Mechanical Engineer, S.E.Rly. Visakhapatnam.
5. Chief Personnel Officer, S.E.Rly. Calcutta-43.
6. Senior Divisional Personnel Officer, S.E.Rly. Visakhapatnam.

.... Respondents.

COUNSELS:

For the Applicants : Mr. Y. Subrahmanyam
For the Respondents : Mr. C.V. Malla Redy

CORAM: MR.

THE HON'BLE/R. RANGARAJAN, MEMBER (ADMIN)

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

-: 2 :-

ORDER

(PER : HON'BLE MR. R. RANGARAJAN, MEMBER(A))

1. Heard Mr. K. Venkateswara Rao for Mr. Y. Subrahmanyam learned counsel for the applicants. None for the respondents.
2. There are 17 applicants in this O.A. They are Grade-I Fitters under DRM(P) of the Waltair Division. It is stated that they were asked to appear for selection to the posts of ad hoc TXRs in the scale of pay of Rs.1400-2300. Though they worked as ad hoc TXRs on that basis they were not regularly promoted.
3. Vide Memorandum No.PV/131/147 dt. 8.1.96, Annexure-A1 to the O.A., it was decided to hold a regular selection for the post of TXR in the scale of pay of Rs.1400-2300, against the promotee quota and volunteers were called to fill up the posts. The ad hoc TXRs were reported to have submitted a representation dt. 25.1.96, which was replied vide Memorandum dt. 12.2.96 (Annexure-A4 to the O.A) to the effect that unless the staff appear for selection and come out successfully there was no scope for their regularisation.
4. This O.A. is filed praying to suspend the order dt. 8.1.96 (Annexure-A1) and the order dt. 12.2.96 and for consequential directions to the respondents not to announce the results of the tests until further orders.
5. Vide order dt. 12.3.96, this Tribunal had given the liberty to the applicants to appear for the selection subject to their contention raised in this O.A. It was also directed that the appointments made as a result of that selection will be subject to the result of this O.A.
6. A reply has been filed in this O.A. The contention

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of the respondents is that the applicants were asked to discharge the day-to-day duties of TXRs in the exigencies of service and that too against the posts earmarked for direct recruitment quota, as direct recruits were not readily available. The applicants cannot demand regularisation without passing the necessary selection tests.

7. Recruitment Rules for the posts of TXRs stipulate that 40% of the TXR vacancies are to be filled by promotion by selection from amongst the work mastries/skilled fitters in Gr.I and Gr.II; 40% of the vacancies are to be filled by direct recruitment and 20% of the vacancies are to be filled from amongst the serving Matriculate employees with three years of service in the Skilled Grade.

8. Notification was issued for filling up the posts against promotion quota on 8.1.96. The applicants instead of appearing for the selection approached this Tribunal by filing this O.A. Four applicants appeared for the test and out of the four applicants, applicants No.9,12 and 14 were selected and posted. Others did not appear for the selection. Hence they cannot be considered for promotion as TXRs on regular basis, submit the respondents. The respondents further submitted that ~~in~~ view of what has been stated above, the O.A. is liable to be dismissed.

9. The ad hoc promotion in any grade to any employee does not give ^{him} them any right for regularisation without having been selected in regular selection. It has been clearly stated that the applicants were asked to discharge the day-to-day duties of TXRs on ad hoc basis. Hence the applicants cannot demand for regularisation, if they had not applied in response to the notification for selection to the post of TXRs

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dt. 8.1.96. They have been informed very clearly by the only come impugned order dt. 12.2.96 that if/they/ out successfully in the selection they can be regularised. Inspite of that except 4 applicants, others did not appear. Applicants 9, 12 and 14 were selected on the basis of their performance in the selection and were appointed. Hence those applicants who did not appear for the selection cannot ask for regularisation of their services even if they had worked on ad hoc basis against the vacancies.

10. The learned counsel for the applicants submitted that the applicants were not even paid higher scale of pay of Rs.1400-2300, when they worked on ad hoc basis. In the prayer, it is prayed that direction may be given to the respondents to pay the arrears of pay and allowance in the higher scale of pay for the applicants who did not appear for the test and who had discharged the duties of TXRs with artificial breaks.

11. The above does not indicate as to what period the applicants had discharged the duties of TXR on ad hoc basis and also based on whose instructions. In the absence of the above details, it is not possible for this Bench to give any direction in regard to payment of officiating allowance to the applicants for the period they had worked on ad hoc basis. It is for the applicants to justify their cases by submitting a representation to the appropriate authority indicating the period they worked on ad hoc basis as TXR for which period they are eligible for payment of pay and allowances. If such a representation is received, no doubt, the representation has to be considered in accordance with the rules and a detailed suitable reply has to be given to the applicants by the respondents.

12. In view of the what is stated above

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O.A. 315 of 1996

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the O.A. is dismissed. The applicants are given liberty to make a representation for granting them pay and allowances for the period they worked on ad hoc basis as TXRs to the appropriate respondent authority. The respondent authorities if any received, should dispose off the representation/within 2 months from the date of receipt of the said representation.

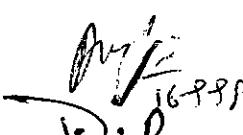
13. The O.A. is [redacted] accordingly. No order as to costs.


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

11.9.98


(R. RANGARAJAN)
MEMBER (A)

Dated, the 11th September, '98
Dictated in open Court.


D.R.

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DA. 315/96

Copy to:-

1. The General Manager, South Eastern Railway, Calcutta.
2. The Chief Mechanical Engineer, S.E.Rly, Calcutta.
3. The Divisional Railway Manager, S.E.Railway, Visakhapatnam.
4. The Senior Divisional Mechanical Engineer, S.E.Rly, Visakhapatnam.
5. The Chief Personnel Officer, S.E.Rly, Calcutta.
6. The Senior Divisional Personnel Officer, S.E.Rly, Visakhapatnam.
7. One copy to Mr. Y. Subrahmanyam, Advocate, CAT., Hyd.
8. One copy to Mr. C.V. Malla Reddy, Addl. CGSC., CAT., Hyd.
9. One copy to D.R.(A), CAT., Hyd.
10. One duplicate copy.

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II COURT

TYED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRØ R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M(J)

DATED:

11/9/98

ORDER/JUDGMENT

~~M.A/P.A/C.P.U.C.~~

in
C.A. NO. 315/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPENSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR



24 SEP 1998

हृदय विवरण
HYDERABAD BENCH