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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 375/96

Date of Order : 5.1.99

BETWEEN :

T.Ramesh

.. Applicant.

AND

1. The Chief Personnel Officer,
S.C.Railway, Rail Nilayam,
Secunderabad.

2. The Deputy Chief Mechanical Engineer,
Carriage Repair Shop,
Tirupathi.

.. Respondents.

— — —

Counsel for the Applicant

.. Mr. K.Sudhakara Reddy

Counsel for the Respondents

.. Mr. V.Rajeswara Rao

— — —

CORAM :

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

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

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O R D E R

As per Hon'ble Shri R.Rangarajan, Member (Admn.)

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Mr.K.Sudhakara Reddy, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

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2. The applicant in this OA was empanelled for the post of Skilled Artisan Electrical Department in the Carriage Repair Shop, Tirupathi on the basis of the written test held on 10.8.86 and interview conducted ^{from} ~~on~~ 23.9.86 to 27.9.86. The applicant belongs to SC community ~~candidates~~. The applicant was not appointed.

3. Aggrieved by the above the applicant has filed this OA praying for a direction to the respondents to appoint him as Skilled Artisan/Electrical in Carriage Repair Shop, Tirupathi.

4. A reply and ^{an} additional reply has been filed by the respondents. The respondents contend as follows :-

(a) The selection for the post of Skilled Artisan in the scale of Rs.950-1500 in Electrical Department of Carriage Repair Shop, Tirupathi was conducted in the year 1986 and the panel was published on 4.6.87. As per the rules in vogue the panel will be in operation for a period of one year unless it was extended in peculiar circumstances of the case. A copy of the relevant rule is enclosed as Annexure-1 to the OA. The panel was extended upto 3.6.89 and thereafter the panel had lapsed. Hence the OA is bared by latches and limitation.

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(b) After due selection a panel of 145 candidates i.e. 126 candidates under non-reserved community and 19 under SC/ST reserved community was published on 4.6.87 to fill the vacancies in Electrical Department against direct recruitment quota. The panel was operated upto Sl.No. 83 under OC/Ex-service men, whereas in the reserved panel it was operated upto Sl.No.15 as per the availability of vacancies. As the panel had lapsed on 3.6.89 the panel was not operated thereafter. Thus 43 candidates under OC/ Exservicemen quota and 4 candidates in the reserved community were not appointed. The applicant is the last one in the panel for reserved community and ~~there are~~ 4 candidates above him were also not appointed. Hence the applicant is not treated discriminately. The percentage fixed for SC/ST candidates had been fulfilled. Hence the applicant has no case.

(c) The panel was prepared for 200 units. Initially the work shop anticipated 100 units. As the ~~work~~ could not be fully operated. Hence the applicant has

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(b) After due selection a panel of 145 candidates i.e. 126 candidates under non-reserved community and 19 under SC/ST reserved community was published on 4.6.87 to fill the vacancies in Electrical Department against direct recruitment quota. The panel was operated upto Sl.No. 83 under OC/Ex-service men, whereas in the reserved panel it was operated upto Sl.No.15 as per the availability of vacancies. As the panel had lapsed on 3.6.89 the panel was not operated thereafter. Thus 43 candidates under OC/ Exservicemen quota and 4 candidates in the reserved community were not appointed. The applicant is the last one in the panel for reserved community and ~~there~~ are 4 candidates above him were also not appointed. Hence the applicant is not treated discriminately. The percentage fixed for SC/ST candidates had been fulfilled. Hence the ~~applicant~~ has no case.

(c) The panel was prepared for repairing of about 200 units. Initially the work shop was designed for 70 anticipated production units. As the ~~target~~ could not be achieved the panel was not fully operated. Hence some of the OC and SC candidates empanelled in the ~~select list~~ were not appointed. Hence the applicant ~~had~~ no case.

5. The learned counsel for the applicant submits that once the number of vacancies has been indicated in the notification then there is no reason for not appointing all the candidates as per the notification. The notification

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has been issued for about 150 vacancies; hence there is no justification in not appointing the applicant as he had qualified in the selection and was empanelled for the post.

6. It is a settled law that an empanelled candidate has no right for absorption as held by the Supreme Court. No doubt the applicant had been empanelled. If his case has not been considered for empanelment probably the applicant has got some case. But in the present case the ~~case of the~~ applicant was considered and he was empanelled. But he has no right to demand appointment if there are no vacancies due to some reason or the other.

7. The respondents had clearly stated that the panel was formed for repairing of 200 units. But since the number of units to be repaired has not been achieved they were forced to curtail ^{the} number of candidates to be recruited for the skilled artisan in the electrical department. The above explanation is apt. The future vacancies that may arise as per the repairing programme the select list was issued with that target in mind. But that target could not be achieved due to some unforeseen reason. Hence the selected candidates who were not appointed cannot demand as a matter of right for appointing them even if the target is not achieved. The applicant is not discriminated as 46 OC candidates and 4 SC candidates who ^{were} senior to him in the select list were not appointed due to the reduction in the units to be repaired.

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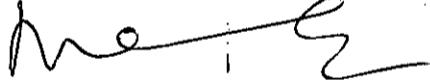
The panel was issued on 4.6.87. It is not understood why the applicant has not approached the Tribunal if he was not appointed within a reasonable period after the issue of the panel. The respondents extended the currency of the panel also upto 3.6.89 morethan a year after the issue of the panel. The applicant did not challenge the full operation of panel even after a considerable period. He came to this Tribunal only after 6 years. Hence when the respondents submit that this application has to be dismissed on account of delay and latches that appears to be a reasonable ground.

8. In view of what is stated above we find no merit in this OA and the OA is dismissed accordingly. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

S.1.99


(R. RANGARAJAN)

Member (Admn.)

Dated 5th January, 1999

(Dictated in Open Court)


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26/1/99
1ST AND 2ND COURT

COPY TO:-

1. HDHNJ
2. HHRP M(A)
3. HGSJP M(J)
4. D.R.(A)
5. SPARE

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

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

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (J)

DATED: 5/1/99

ORDER/JUDGMENT

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

In

O.A. NO. 375/98

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

6 copies

