

(21)

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

Original Application No.718/96

Dt. of decision 20-6-96

Between:

M.A. Haroon .. Applicant

and

1. The Divl. Railway Manager,
S.C. Railway,
Vijayawada-520 001.
2. The General Manager,
S.C. Railway,
Secunderabad-500 071.
3. Inspector of Works,
S.C. Railway,
Guntur.

.. Respondents

Counsel for the applicant : Shri G.V. Subba Rao

Counsel for the respondents: Shri D.F. Paul

CORAM

Hon'ble Mr. Justice M.G. Chaudhari : Vice Chairman *ML*

Hon'ble Mr. H. Rajendra Prasad : Member (A) *9*

(28/2)

OA No.718/96

JUDGEMENT

(Oral order as per Hon'ble Sri H. Rajendra Prasad, Member (A))

In this O.A. the applicant, Shri M.A.Haroon, Watchman/ Khalasi (IOW), questions the rejection of his candidature at a^{ll} departmental examination for selection to Junior Clerk Cadre, the test and interview for which are going to be held shortly.

2. The applicant is a physically-handicapped person who was appointed initially as Safaiwala in the Operating Department of Vijayawada Division in S.C. Railway. Subsequently, he applied for a change of cadre from Safaiwala to Office-Peon. Since the said change requested by him appeared likely to take a long time to fructify, Shri Haroon applied again to the concerned authorities to atleast consider his posting in an alternative appointment from the Operating Department to Engineering Department. His request was accepted and he was duly permitted a change of category on 2-2-94, subject to certain conditions. Consequent on this, he was posted as Khalasi in the Engineering Department under IOW, Guntur.

During the year 1994, when departmental selection was to be conducted for promotion of Group-D officials to the posts of Jr. Clerks, it was held by the authorities that the applicant was not covered under the category of eligible candidates to take the relevant examination.

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Aggrieved by this ruling, he approached this Tribunal in O.A.1255/94, which was disposed of with a direction that he should be permitted to appear at the said examination. Pursuant to this the applicant duly appeared for the examination but failed to qualify.

3. A similar situation has arisen now. An identical examination (for promotion from Group-D to Junior Clerk) is again scheduled to be held on 22-6-96. The grievance and the relief(s) claimed by the applicant are the same on this occasion as well, and the grounds on which the request is based are also similar to those in O.A.1255/94 already referred to.

4. We have examined the relevant instructions and rulings concerning the conduct of, and eligibility for, the said examination. We have also been shown the notings in the relevant file maintained in the office of the DRM, Vijayawada. The position that emerges is as under:-

(i) The Khalasis under IOws have no direct channel of promotion to the clerical category, as per the Avenue Chart published by the CPO. The applicant being a Khalasi under the IOW, Guntur, does not, ipso facto, qualify to appear at the said examination.

(ii) It is also clarified that the Khalasis on the Engineering side shall have to seek ~~the~~ their advancement to the category of Mate.

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Gardner, Head Mate/Head Gardner, or alternatively, they may earn promotions also in the Artisan categories as Khalasi-Helper. This too is in accordance with the Avenue Chart already mentioned.

5. Such being the basic position of rules concerning the eligibility and streams of advancement, it would not be correct to argue that the applicant in the present OA (a) should be declared eligible to appear for the said test, or (b) is not at all eligible for any advancement in his own allotted line of promotion.

6. It was argued by Shri G.V.Subba Rao, learned counsel, that the benefits of promotion enumerated in the Avenue Chart are illusory in the case of the applicant since he has physical impediments which would stand in the way of his fulfilling the medical standards prescribed for the promotional posts. This is denied by the respondents. In any case, the physical handicap is a personal circumstance of an individual and cannot override the general promotional policy evolved by the department for a whole class or cadre of employees. The relaxations and concessions for physically handicapped candidates are generally extended at the point of initial entry and not usually made available at each subsequent promotion. Also, a relaxation on the ground of physical infirmity has to be sought under the provisions of a proper scheme evolved for the purpose of alleviating or safeguarding the interests of such officials, if such a scheme exists, and not by seeking relaxation of rules for a group, class or cadre of people.

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7. Under the circumstances, we are unable to accept any of the pleas contained in the O.A. Since the relief sought is wholly opposed to the basic regulations governing the said examination, we are not in a position to grant them. There is no point in admitting this O.A. The same is, therefore, disallowed at the admission stage.

8. It was mentioned in course of the hearing that the applicant is now desirous of being considered for a conversion of category to the Office-Peon once more. We have nothing to say regarding this submission except that it shall be open to him to reapply for such conversion; and we also express a strong hope that the respondents shall consider the request as per rules, and with a measure of sympathy that it deserves, since the applicant is stated to be physically-handicapped and, therefore, incapable of sustained strenuous work.

9. The O.A. is disallowed at admission stage. No costs.

H. Rajendra Prasad
(H. Rajendra Prasad)
Member (A)

M.G.Chaudhary
(M.G.Chaudhary)
Vice Chairman

Dt. 20-6-96
(Open Court dictation)

Amrit
23696
Deputy Registrar (O)

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O.A.718/96.

To

1. The Divisional Railway Manager,
SC Rly, Vijayawada-1.
2. The General Manager, SC Rly,
Secunderabad-071.
3. The Inspector of Works, SC Rly,
Guntur.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.Sri D.Francis Paul, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAI RMAN

AND

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

Dated: 20-6-1996

ORDER/JUDGMENT

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

in

O.A.No. 595/96 718/96.

T.A.No. (W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

No Space (Copy)

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केन्द्रीय प्रशासनिक विधिकरण
Central Administrative Tribunal

DESPATCH

22 JUL 1996

HYDERABAD BENCH