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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

Original Application No. 816/1996

OASR 2083/96

Dt. of decision: 4-7-1996

Between:

1. M. Seshu Kumar
2. D. Sanjeeva Rao
3. K.N. Rajendran
4. D.M. Prabhakar
5. D. Soloman Raju
6. G. Veeralankaiah
7. G. Madhusudhan Rao
8. G. Sivaramakrishna Rao
9. G. Satyanarayana

.. Applicants

and

1. Railway Board rep. by its
Secretary, Railway Bhawan, N.Delhi.
2. General Manager,
S.C.Railway, Secunderabad.
3. Chief Personnel Officer,
Personnel Branch, S.C.Railway,
Secunderabad.
4. Divisional Railway Manager,
Vijayawada Division, S.C.Railway,
Vijayawada.
5. Divisional Personnel Officer,
Vijayawada Division, S.C.Railway,
Vijayawada.
6. Sr. Divl. Signal Telecommunication Engineer,
Vijayawada Division, S.C. Railway,
Vijayawada.

.. Respondents

Counsel for the applicants : Sri K.S.Murthy

Counsel for the respondents: Sri V. Rajeswar Rao
SAC. Counsel.

CORAM

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

Hon'ble Mr. H. Rajendra Prasad

: Member (A)

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JUDGEMENT

(Oral order as per Hon. Mr. Justice M.G. Chaudhari, V.C.)

Heard Sri K.S. Murthy for the applicants at length.

Sri V. Rajeshwara Rao appears for the respondents. He shall however file a Memo of Appearance on record.

2. By letter dt. 27-1-93 the Railway Board introduced a scheme for restructuring of certain group C&D cadres under the Railways in consultation with the Staff Side in the Committee of the Departmental Council of JCM. The scheme provided for restructuring of cadres ~~to authorities~~ ^{with reference} to the sanctioned strength on 1-3-1993. However, the category of Wireless Instrumental Maintaineers (WIMs) was not specified as included under that scheme.

3. The applicants are working as WIMs. It appears that there arose some doubt as to whether their category was covered by the restructuring scheme or not. The Director of Telecommunication Wing in the Railways suggested to the General Manager (S&T) of various Zonal Railways that a clarification was needed from the Railway Board on the point as to whether Maintaineers are entitled to the benefit of restructuring and ⁱⁿ any stated percentage. It appears that there were some representations ~~were~~ also made by WIMs to the Board. Eventually, the Railway Board by Circular

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No. PC-III/96/05/51/N/Z/No.P.C.-III/93/REP/13, dt.17-1-1996

issued the orders that categories of WIMs may be allowed the same revised percentage of ESMs as given in the restructuring orders contained in the Board's letter dt.27-1-93. It was clarified that the benefit of promotion now to be effected will be on proforma basis w.e.f. 1-3-1993 and cash benefit from the date of issue of orders. These orders were passed with the sanction of the President.

4. By Sl.circular No.97/95 issued on 13-7-95 the Railway Board had directed that no promotion of the Artisan Staff against the restructured as well as normal vacancies should be given without holding the trade test. That was also reiterated at Index No.1051. The applicants have thereafter been alerted to be in readiness to appear for the Trade Test for promotion that would be held. Some of the applicants have been alerted for the Trade Test for the ^{scale} grade of Rs.1320-2040 and some for the scale of Rs.1200-1800. Among the applicants there are 3 SC candidates and 1 ST candidate.

5. The applicants seem to be unwilling to appear at the Trade Test. Their contention is that since no Trade Test was prescribed under the restructuring scheme dt.27-1-93 they cannot be required to go through the Trade Test, and their promotion should be effected in the manner provided in that scheme.

Their second grievance is that they should be entitled to the monetary benefit of promotional post w.e.f. 1-3-93 and not prospectively.

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6. As far as the 1st point is concerned, while it is true that under the ~~original~~ scheme dt.27-1-93 the existing selection procedure was modified to the extent that the selection was to be based only on scrutiny of service record and Confidential Reports without holding any written or viva voce test as a one time exception by special dispensation made by the Ministry of Railways, the circular dt.13-7-95 prescribed the condition ^{of} for passing the trade test. However, since the category of WIMs was not covered by the original scheme dt.27-1-93 and their category was brought under the scheme only on 17-1-96 they cannot claim the benefit of the original modified selection procedure. They should be governed by the procedure as was applicable on 17-1-96. As on that date by virtue of the decision of the Railway Board dt.13-7-95 vide SC.No.87/95 passing the trade test was a requirement of selection process. The applicants therefore cannot hope to get exemption therefrom. It has to be mentioned in this connection that that the restructuring the scheme was made applicable to the WIMs by letter dt.17-1-96 with the sanction of the President which means that ^{Had it was a fresh} ~~was~~ a decision taken at that time and it can not apply retrospectively. We therefore see no illegality in the respondents' action of alerting the applicants for trade test.

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7. As far as the second grievance is concerned the very same letter of the Railway Board dt.17-1-96 (supra) provided that the benefit of promotion effected thereunder in the case of WIMs will be on proforma basis w.e.f. 1-3-93
✓ cash and benefit from the date of issue of ^{order} ~~order~~ ^{1st - ie 17-1-96.} The inclusion of category of WIMs under the restructuring scheme and prescribing this condition being part and parcel of the same
✓ ^{order} decision. Both these have to be read together. The competency of the Railway Board in making this rule cannot be disputed. There is therefore ~~no~~ room to take the view that the applicants should be entitled to get the actual cash benefit from 1-3-93.

8. The learned counsel for the applicant ~~vehemently~~ argued that Hyderabad and Guntakal Divisions of S.C.Railway have given benefit of promotion to certain WIMs without going through the trade test and therefore the applicants also should have been given that benefit and they should not be required to go through the trade test. The learned counsel, however was not able to substantiate this contention either pointing out any specific instance or any orders issued by the said Divisions to show that some persons were promoted without going through the trade test. The learned counsel could only referred to the representations filed by sixteen (16) WIMs including the applicants working in BZA Division to the DRM, BZA on 24-5-96 (Annexure-13) in which it

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is stated that in terms of CPO/SC letter No.32/96

promotions are being ordered in GTL Division and HYB (MG)

✓ Division without holding the trade test, and other Divisions of S.C.Railway are implementing the restructuring orders

✓ without holding the trade test and ^{Division} Vijayawada may also do the same thing. It is merely a unilateral statement

✓ made and is not sufficient ~~for us~~ to draw the inference that the other Divisions are not complying with the directions of the Railway Board. Apart from that even assuming that such a practice has been followed by those two Divisions

✓ ^{prima facie} since that would appear contrary to the directions of the Board which we have mentioned earlier. That would not

✓ clothe the applicants ^{with} any right to claim exemption from trade test. Hence, we find it difficult to accept this

✓ submission. It may however be mentioned that in Para. 5 of the representation where the above statement has been

✓ ^{it is stated} made in Para. 5 that ~~those~~ order copies are enclosed. Nothing however —

✓ has been produced before us.

9. Since we find that the representation was filed on 24-5-96 to the DRM and the statement as noted above has been made in that representation and possibly some office orders may have been enclosed with the representation. ^{We} hope that the DRM will examine the position in the light of the instructions of the Railway Board and take suitable steps accordingly. That, however, is not

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sufficient for us to admit this ^{OA} as no prima facie case
is disclosed.

10. The O.A. is accordingly dismissed at the admission
stage. No costs.

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

M.G. Chaudhari
(M.G. Chaudhari)
Vice Chairman

Dt. 4-7-1996
(Open court dictation)

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4-7-1996
Dy. Regd (S)

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OA.816/96 in

Copy to:-

1. Secretary, Railway Board, Railway Bhavan, New Delhi.
2. General Manager, South Central Railway, Secunderabad.
3. Chief Personnel Officer, Personnel Branch, S.C.Railway, Secunderabad.
4. Divisional Railway Manager, Vijayawada Division, S.C.Railways, Vijayawada.
5. Divisional Personnel Officer, Vijayawada Division, S.C.Railways, Vijayawada.
6. Sr. Divisional Signal Telecommunication Engineer, Vijayawada Division, SC Rlys, Vijayawada.
7. One copy to Sri K.S.Murthy, Advocate, Advocates Association, High Court of A.P.
8. One copy to Mr.V.Rajeshwara Rao, SC for Rlys.
9. One copy to Library, CAT, Hyd.
10. One spare copy.

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1 COURT

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CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

Dated: 17 - 7 - 1996

ORDER/JUDGMENT

M.A./R.A/C.A.No.

O.A.No. 595/96

816/96

F.A.No.

(W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed *at the Admissio*n stage

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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