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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 861/96.

Dt. of Decision : 03-09-98.

1. K. Devadanam
2. K. L. Sreel
3. Shaik Abdulla

...Applicants.

Vs

1. The Divl. Rly. Manager (Personnel),
SC Rly, Vijayawada.
2. The General Manager,
Rail Nilayam, SC Rly, Sec'bad.
3. Mr. Aslam Zaveed
4. P. Tata Rao
5. Ch. Jayaraju
6. K. Raghavendra Rao
7. K. Bhaskara Rao

...Respondents.

Counsel for the applicants : Mr. G. V. Subba Rao

Counsel for the respondents : Mr. V. Bhimanna, SC for Rlys.

CORAM:-

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

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

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ORDER

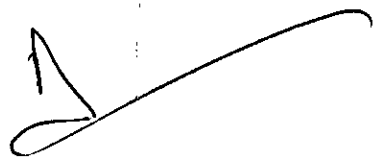
ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr.G.V.Subba Rao, learned counsel for the applicants and Mr.V.Bhimanna, learned counsel for the respondents.

2. There are 3 applicants in this OA. Their date of initial engagement as Casual labour, ^{on which} the date/they were brought on temporary status and the date from which they were working as Motor Vehicle Driver on adhoc basis and the number of days they worked as C.L. as on 31-12-95 has been indicated in Page-19 Annexure-B to the OA. In the year 1994 ^a suitability ^{test} for promotion to the post of Jeep Drivers in the scale of pay of Rs.950-1500/-(RSRP) in open line Bizawada Division was held and the ^{list of} adhoc Motor Drivers Gr-III who were regularly absorbed in the post of Jeep/Truck Drivers in the scale of Rs.950-1500/- is enclosed as Annexure-V Page-23 to the OA. The applicants ^{are} ~~are~~ in the open line ^{as} casual Motor Drivers. But their names were not included in the memorandum dated 23-11-94 as they were juniors to all those 23 empanelled by that memorandum.

3. Thereafter a notification was issued bearing No.B/P. 563/VIII/Vol.VIII Motor Drivers dated 23-2-96 (Annexure-I) for filling up the vacancies of Motor/Lorry/Jeep Drivers Gr-III in the scale of Rs.950-1500/- in open line (Maintenance) (General POOL). For this notification employees in Group-D service and casual labourers and adhoc Jeep Drivers were called provided they ~~are~~ all possessed the Driving licence. The applicants were amongst them. But it is stated that the applicants were not selected. They further alleged that even Sweepers and other Group-D staff were empanelled as Jeep Driver and applicants having a valid licence ^{and} possessing experience in driving Motor vehicles were not empanelled.

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4. Aggrieved by the above, the applicants have filed this OA for setting aside the notification dated 23-2-96, the letter ~~xxxxxxx~~ dated 31-5-96 whereby candidates were ^{advised} ~~advised~~ for the trade test, ~~xxxxxxx~~ and ~~xxxxxxx~~ letter dated 19-6-95 whereby ^{the} ~~xxxxxxx~~/trade test was fixed and also the letter dated 1-7-86 whereby the select list was issued for promotion to the post of Jeep/Lorry/Motor Drivers by holding the same as illegal, irregular and for a consequential direction to the respondents No.1 and 2 to regularise the services of the applicants as Lorry/Motor/Jeep Drivers in the existing vacancies of Vijayawada Division open line as they are qualified in all respects taking into consideration ^{their} ~~their~~ experience as adhoc Drivers in the open line.

5. A reply has been filed in this OA. The respondents in the reply submit that the vacancies of Motor/Jeep/Lorry Drivers Gr-III in the scale of Rs.950-1500/- in open line (General POOL) are to be filled from serving regular Group-D employees of open line and serving substitute/Casual Labour in open line as well as various construction organisation who fulfil the following conditions as below:-

"(i) Must hold a Current Heavy Vehicle Driving licence and possess an elementary knowledge of mechanism of Motor Car/Technique in regard to their up keep etc.

(ii) Must possess a valid first aid certificate".

6. The selection is made on the basis of trade test followed by viva-voce and consideration of records. As regards empanelling of candidate for the said post in 1994 it was stated that these posts ^{were} ~~are~~ required to be filled urgently on the basis of the representations ~~xxxx~~ from organised labour. Hence a decision was taken as a one time measure to regularise the services of the casual labour Motor drivers against the regular vacancies. That cannot be quoted as a reason to consider the applicants herein ^{first} ~~first~~ before considering others for posting as Motor/Lorry/Jeep Drivers. They

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further submit that the cases of the applicants ^{were} ~~are~~ also considered but they could not be empanelled since they were only casual labour Drivers and ^a ~~much~~ large number of regular Group-D employees were fulfilling the available ~~with~~ requisite conditions for empanelment.

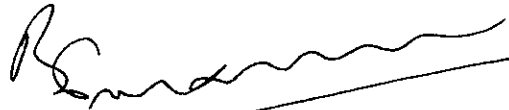
7. Before deciding this issue what is required to be seen is the provisions in the recruitment rules for filling up Artisan category staff. The Railway Manual stipulates that the artisan category staff are to be filled to the extent of 75% from the regular Group-D employees and to the extent of 25% from the open market. It is not understood ^{why an} ~~that~~ exception was given to that rule in the year 1994. However, that exception ^{is} ~~was~~ not questioned. Hence, it is not necessary to go into that issue in the present case.

8. Even in the notification in 1996, the respondents should have issued notification for filling up the posts from Group-D employees possessing necessary qualification before considering casual labour who fulfilled ^{the} condition. Unfortunately, the Railway had complicated the issue by combining the casual labour also for submission of applications for filling up the regular post of Motor Drivers. Such an action on the part of the respondents is unwarranted and hence that led to the present filing of this OA. Those who ^{were} ~~have~~ empanelled on the basis of the notification 1996 ^{regular} were ~~not~~ Group-D employees. Hence they are senior to the applicants herein. Hence, if their seniors were promoted after passing the trade test and fulfilling the necessary conditions for appointment the juniors cannot have any grievance. Hence, the question of setting aside the various proceedings mentioned in the relief column thus does not arise.


9. The learned counsel for the applicant submitted that the applicants have a right to be absorbed in Group-D. But that was also not done. Hence, the relief has to be granted to them in this OA.

10. If juniors to the applicants who were casual labourers either un-skilled or semi-skilled or skilled category were screened and regularised as a Group-D and the applicants were not called for that screening ^{test} then the applicants have to be considered for absorption in Group-D, if they are willing to join as Group-D. In such a situation the applicants should be screened if they had not given the refusal for screening earlier and their cases for absorption as Group-D should be considered and their seniority ^{be} fixed on the basis of their total number of days ^{of} services in the casual status. But such a relief is not asked for in this OA. The applicants are at liberty to submit a ~~xxxxxxx~~ representations, if they are so advised, for the above relief to the concerned respondent authorities. If such a relief is refused they are at liberty to initiate such ^{legal} action as they feel fit ^{for} ~~to~~ redressal of their grievances.

11. In view of what is stated above, the OA is dismissed. No costs.

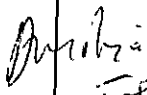

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

3.9.98


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 3rd Sept. 1998.
(Dictated in the Open Court)

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Anitha
T.P.P.
DNC

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Copy to:

1. The Divisional Railway Manager, (personnel),
South Central Railway, Vijayawada.
2. The General Manager, Rail Nilayam,
South Central Railway, Secunderabad.
3. One copy to Mr.G.V.Subbarao, Advocate, CAT, Hyderabad.
4. One copy to Mr.V.Bhimanna, Addl.CSSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

YLKR

29/9/98 (6)

II COURT

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 3/5/98

ORDER/JUDGMENT

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

in

C.A.NO. 861/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH
21 SEP 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH