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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.107/96

dt.23-6-98

Between

1. R. Sudheer Kumar Joseph
2. J. Srinivasarao
3. S. Narsingarao

: Applicants

and

1. Union of India, rep. by
General Manager
SE Rly., Gardenreach
Calcutta 43

2. Chief Personnel Officer
SE Rly., Gardenreach
Calcutta 43

3. Divnl. Rly. Manager (P)
SE Rly., Visakhapatnam 4

: Respondents

Counsel for the applicants

: P.B. Vijayakumar
Advocate

Counsel for the respondents

: N.R. Devaraj
SC for Rlys.

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)

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Order

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member (J)

Heard Sri P.B. Vijayakumar for the applicants and Sri N.R. Devaraj for the respondents.

1. While applicants-1 and 2 were working as Booking Clerks and Applicant-3 was working as Parcel Clerk, the CPO issued Circular dated 27-8-93 (Annex.II) inviting applications for filling up vacancies of Enquiry-cum- Reservation-Clerks in the pay scale of Rs.1200-2040.
2. All the applicants submitted their candidature in response to the circular. They all underwent written test and viva-voce tests and were empanelled vide CPO memo No.P/L/11/1105/ERC SEL/Pt.III dated 6-9-95. On the basis of the said panel Respondent-3 issued posting orders as per Annex.III. It is submitted that in response to that Applicants 1 and 2 were working as Enquiry-cum-Reservation-Clerks and Respondent-3 ^{was} awaiting order of posting.
3. In the meanwhile Respondent-3 by proceedings dated 19-1-96 vide No.ESTT:COMEL:B:08 (Annex.I) reverted the applicant-2. The other applicants were also empanelled for the posts of ECRC but their names were deleted. Hence they have filed this OA for a declaration that deletion of their names communicated by office order dated 19-1-1996 of Respondent-3 as arbitrary, illegal and consequently quash the same.
4. The respondents have not filed reply to the OA. However, during the course of argument, the learned counsel for the respondents produced draft counter prepared by them. On perusal of the draft counter it is found that their contention

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is that the applicants were not eligible for consideration for the posts of ECRC. That they were erroneously permitted to appear for the examination and were empanelled and therefore after ascertaining that they were not eligible, reversion order of Respondents-2 and 3 were issued by the impugned order.

5. From the above submission of the respondents it is evident that the feeder category from Commercial cadre to the post of ECRC is only Commercial Clerks in the lowest grade of Rs.950-1500. Senior Commercial Clerks in the scale of Rs.1200-2040 are not eligible for consideration for posting as ECRC as the scale of pay of Senior Commercial Clerks is same as that of ECRC. The respondents further submit that the applicants were already promoted to the post of Senior Commercial clerks in the scale of Rs.1200-2040. They have no locus-standi for posting as ECRC in the scale of Rs.1200-2040 even if they are selected. The respondents submit that they allowed the applicants to appear for selection erroneously by oversight as they did not check the status of the applicants for consideration for the post of ECRC. The submission of the applicants were taken in toto and was assumed that the applicants were Adhoc Senior Commercial Clerks in the scale of Rs.1200-2040 and hence they were permitted to appear for the examination for the post of ECRC.

6. In order to verify whether the submissions of the respondents that the applicants were promoted only on adhoc basis Senior Commercial Clerks in the scale of Rs.1200-2040, we examined the draft reply submitted by the respondents minutely. In the draft reply in para-4 it is clearly stated that the first applicant was promoted as Senior Booking Clerk with effect from 19-1-1995 being found suitable to the post of Senior Booking Clerk/Senior Parcel Clerk. Similarly, the

second applicant was promoted as Senior Booking Clerk/Senior Parcel Clerk on 1-3-1995. The third applicant was promoted as Senior Booking Clerk on 1-2-1994. The status of the applicants for the post of ECRC arises at the time of their submission of their applications. In the OA it is stated that the applications of the applicants were duly recommended and forwarded in December, 1994. Hence, by 1994 if the applicants were not working regularly as Senior Commercial/Booking Clerks in the pay scale of Rs.1200-2040 their cases cannot be rejected for the post of ECRC. It is evident from the draft reply that applicants 1 and 2 were promoted as Senior Booking/Parcel Clerks only on 19-1-1995, 1-3-1995 respectively. The office forwarded their applications in December, 1994 itself. Hence, question of rejection of candidatures of the applicants 1 and 2 for the post of ECRC is erroneous as they were adhoc Commercial Clerks in the pay scale of Rs.1200-2040 till December, 1994 when they submitted applications. Their cases must necessarily be considered for empanelling them as ECRC.

7. The learned counsel for the respondents tried to make out a case that the applicants having been promoted earlier in May 1995 when the written test and viva-voce ^{was} ~~is~~ conducted their cases have to be treated as Regular Commercial Clerks. That contention has to be rejected outright. If the applicants 1 and 2 were regular Senior Commercial Clerks before ^{ansidh} May 1995, then while issuing their promotion orders in January and March, 1995 they should have been informed that their cases will not be considered for the post of ECRC as they were regularly promoted as Senior Commercial/Booking clerks. When such notice was not given to them their cases cannot be rejected even if they were promoted as Senior

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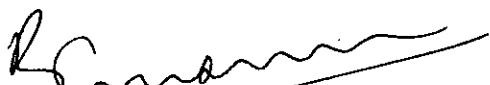
Commercial/Booking Clerks/Parcel Clerks after December, 1994 before May 1995.

8. From the reply it is evident that Applicant-3 was promoted as Senior Commercial Clerk on 1-2-1994 regularly much earlier to December, 1994. Hence, Applicant-3 cannot be considered for the post of ECRC and the rejection of his application is in order.

9. In view of the above appreciation, the following direction is given :

If applicants 1 and 2 had come out successful in the Selection held for the post of ECRCs for which written and viva-voce was conducted in May, 1995 then they are entitled for empanelment for the post of ECRCs if otherwise suitable and their positions are within the number earmarked for empanelment. The deletion of their names from the empanelled list is set aside and the respondents are directed to implement the above direction after checking the facts from the records.

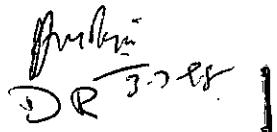
10. The OA is ordered accordingly. Nocosts.


(B.S. Jai Parameshwar)
Member (Judl.)

23.6.98


(R. Rangarajan)
Member (Admn.)

Dated : June, 23, 98
Dictated in Open Court


DR [Signature]

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Copy to:

1. The General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta.
3. Divisional Railway Manager(P), South Eastern Railway, Visakhapatnam.
4. One copy to Mr. P.B. Vijayakumar, Advocate, CAT, Hyderabad.
5. One copy to Mr. N.R. Devraj, Sr. CGSC, CAT, Hyderabad.
6. One copy to HBSJP, M(J), CA, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

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13/7/98

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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: 23/6/98

ORDER/JUDGMENT

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

in

C.A.NO. 107196

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLR

