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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 297/97.

Dt. of Decision : 11-12-98.

A. Eswara Rao

..Applicant.

Vs

1. The Divl. Railway Manager,
SC Rly, Divisional Office,
Vijayawada-1.
2. The Sr.Divl. Personal Officer,
SC Rly, Vijayawada.
3. The Sr.Divl. Electrical Engineer,
SC Rly, Vijayawada.
4. Aslam Javeed
5. T. Tata Rao
6. Ch. Jayeesh Raju

..Respondents.

Counsel for the applicant : Mr. J. M. Naidu

Counsel for the respondents : Mr. D. F. Paul, 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 B.S.JAI PARAMESHWAR : MEMBER (JUDD.))

Heard Mr.J.M.Naidu, learned counsel for the applicant and Mr.D.F.Paul, learned counsel for the respondents. Mr.Srinivasa Reddy, Sr.DPO, Vijayawada was present with records to enlighten us as to procedure adopted by the committee and the selection process.

2. The respondents issued a notification dated 23-2-96, calling for volunteers from serving regular Group-D employees, CL/Sub.working in open line as well as Construction organisation in order to fill up 7 posts of Motor Drivers, Gr-III. Out of 7, 2 vacancies were meant for construction RE, CL/RE CMR Drivers. It is stated that volunteers should have a current heavy vehicle driving licence and possess an elementary knowledge of mechanism & maintenance of Motor Car/Lorry/Jeep. The applicant who was a Khalasi Helper working under JE/Elect./BZA volunteered for that post through his application dt. 29-2-96. He was subjected to practical test & viva-voce test on 25-6-96 by a committee of three officers. He had not come up in the said selection. Keeping in view of his over haul performance both in professional ability and viva-voce, the selection committee found the applicant not suitable for empanelment for that post and the panel was published on 1-7-96.

3. On the basis of the select panel dated 1-7-96 the R-2 issued posting orders to the respondents 4 to 6 by his proceedings No.B/P.535/III/Motor Drivers/Gr-III/Vol.I. dated 10-7-96 (Annexure-I). Then the applicant filed OA.No.1170/96 before this Tribunal. It was disposed of on 9-10-96, directing the R-1 to consider and dispose of the representation dated 3-9-96 of the applicant.

4. The R-1 considered the representation dated 3-9-96 and through his letter No.B/P.563/VIII/Motor Drivers dated 19-12-96 (Annexure-II) informed the applicant that post of Motor Drivers was filled by due process of selection by assessing the suitability of

the candidates in practical test followed viva-voce by a committee of 3 officers and that the applicant was given adequate opportunity to go through the process of selection.

5. The applicant submits that the procedure adopted by the selection committee for selection of Meter Drivers Gr-III is illegal, that there was no written or viva-voce test, that he is the seniormost official discharging the duties as Drivers since 1987, and that the respondents 4 to 6 have no knowledge in Mechanism in the motor field.

6. The applicant has filed this OA for the following reliefs:-

A) To call for the records relating to the selection made vide memorandum No.B/P.563/VIII/Vol.C-III/Meter Drivers dated 1-7-96 (1-7-96 ?).

B) To call for the records relating to the proceedings No.B/P.535/Vol.III/M.T./Gr-III/Vol.I dated 10-7-96 issued by R-2 posting the persons selected in proceedings dated 1-7-96.

C) Relating to the proceedings No.B/P.563/VIII/Meter Drivers dated 19-12-96 issued by R-1 in reply to the representation dated 3-9-96 of the applicant;

D) to quash them as illegal, arbitrary and violative of para-219 of the IREM and for a consequential direction to the R-1 and R-2 to hold fresh selection.

7. The applicant contends that the selection was not in accordance with the rules. Further he adds that the applicant has been doing the job of the driver even though he is designated as Khalasi Helper and hence rejection of his case is not in order.

8. Mr.Srinivasa Reddy, Sr.DFO, Vijayawada submitted that all the volunteers in Group-D as well as Casual Labourers who had responded to the notification were called for the selection provided they possessed the Heavy Vehicle Driving Licence and a

certificate having knowledge in the first aid. The applicant was one of the candidates who fulfilled that condition. Hence, he was also called for the selection.

9. The selection consisted of three parts. The first part is to hold a trade test and also a practical test comprising of 60 marks and 40 marks respectively. That total marks to be obtained for 100 is reduced to a total of 50 marks i.e., reducing to half the total marks obtained in that phase of the examination.

Thereafter, the service records of the applicants were considered. The committee fixed the marks as 25 for the service records. The marks are given taking note of punishment as well as awards earned by a candidate and also higher qualification possessed by them. If a candidate is possessing a higher qualification of ITI he has been given 2 marks and for an award secured by the candidate at divisional level he will get two marks and at the head quarter level award will entitle ^{him} to three marks. Likewise, a candidate will lose two marks for a major penalty and one mark for a minor penalty punishment. Thus, the service records were examined and mark was awarded upto a maximum of 25. At the third phase of the examination the candidates were interviewed by a committee and they were awarded marks for which 25 is fixed as the maximum.

10. A candidate should get minimum of 50% in the aggregate for the professional ability i.e., in the first phase of the examination a candidate should get 50%, for that post. The applicant failed to get the minimum marks even in the first phase of the examination. He got 18 marks out of 50. Hence, he did not qualify even in the first phase of examination. Hence, his case was rejected. This was seen by the highest authority of the division and came to the conclusion that the applicant had not made out a case for selecting him as Driver Gr-III:

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11. From the above given details it has to be noted that the applicant had not come up in the selection. When he failed in the examination he cannot have any greuse for not selecting him as Gr-III Driver, even if he had been working as a Driver Gr-III without any proper order on his own violation. But it is to be noted from the submission of the applicant that he had been doing the job of driver regularly even though he was paid as khalsi helper in the lower grade. If so, it is for the applicant to urge for extra remuneration if he has been discharging the higher duties for which he is not properly paid. It is open to him to initiate such proceedings as deemed fit to obtain necessary and proper remuneration from the respondents.

12. The applicant relies on the para-216 of the IREM to state that the ~~xx~~ rejection of his case for the post for Driver Gr-III is irregular. We have perused the said para. This para may not be of much use to the applicant. It only states that adhoc appointment should not be continued indefinitely. There is no proof to show that the applicant was given adhoc promotion as Driver. Even if presuming that he was given the adhoc appointment and he was continued indefinitely, he should have protested against that. Now when he has failed in the selection examination the due submission cannot be taken as proper justification to grant him the relief. The applicant submits that the selection committee members were biased towards him and because of the malafides he was disqualified.

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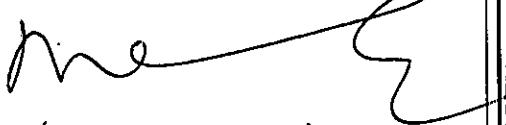
13. This contention cannot be taken cognizance of unless the details are clearly set out in the OA. We do not find any such details in this connection. Further the name of the selection committee members who was alleged to have been biased towards the applicant should have been included by name as one of the respondents to the OA so as to hear him in this connection. Without hearing him no order can be passed on the basis of the allegations of biased. Hence this contention is rejected.

14. In the result, the OA is dismissed.

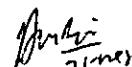
15. However the applicant is at liberty to take such action as he deems fit in case he was asked to discharge higher duties and paid in a lower grade in accordance with law. No costs.

16. We express our gratitude to Mr. Srinivasa Reddy, Sr.DPO, Vijayawada for his assistance.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

11.12.98
Dated : The 11th Dec. 1998.
(Dictated in the Open Court)


Jai
Parameshwar

spr

8-7-99
II COURT

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D-HBSSP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

2) D.R (A)

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

3) SP&R

AND

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

DATED: 11/12/98

ORDER/JUDGMENT

MA/R.A./C.P.NO.

in
OA.NO. 297/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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