

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

64

O.A. 401/97

Date of decision: 28.8.1997

Between:

1. A. Narayana Rao
2. B.Thippa Swamy
3. P.M.Das Babu
4. Anthony Raju
5. D.Venkaiah
6. J.Koteswara Rao
7. V.Krishna Rao
8. K.Sambasiva Rao
9. G.Chinna Rao
10. N. Ankaiah
11. T.Subramanyam
12. J.Mamulu
13. D.P.Venkateswarlu
14. P.V.Subrahmanyam
15. G.Chinna Rao
16. B.Saida Rao
17. B.Vasantha Rao Naik

... Applicants

And

1. General Manager,
S.C. Railway,
Secunderabad.
2. Divisional Railway Manager,
S.C. Railway,
Vijayawada Division,
Krishna District.
3. Sr. Divisional Personnel Officer,
S.C. Railway,
Vijayawada Division,
Krishna District.

.. Respondents

Shri B. Narasimha Sarma
(rep. by Shri M.C. Jacob)

.. Counsel for applicant

Shri V. Rajeswara Rao

.. Counsel for respondents

ECRAM

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

HON'BLE SHRI B.S. JAI PARAMESWAR, MEMBER (JUDICIAL)

2/25/97

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2/25/97

J U D G E M E N T

(Per Hon'ble Shri H. Rajendra Prasad, Member (Administrative))

The applicants, all working as Switchmen, opted to be considered for absorption in the alternate post of Goods Guard in response to a notice in this regard issued by DRM, Vijayawada, on 26.9.96. The calling of options had become necessary due to the upgradation in technology by way of Central Panel Inter-Locking System which was proposed to be introduced in the Division, resulting in an anticipated surplus of about 110 Switchmen. This surplus was expected to arise by the beginning of January, 1997.

Although a choice was available to the applicants to opt for absorption as either Goods Guards or Assistant Station Masters, all of them exercised their preference in favour of absorption as Goods Guard.

On 6.2.97 the respondents released a list of 46 Switchmen ^{who were} (to be subjected to a suitability-test to fill 45 vacancies of Goods Guards. Of these, 32 officials were found fit and selected for absorption on the basis of the suitability test conducted on 10-11/2/97, and were asked to be in readiness to join the promotional course due to commence on 3.3.97 at Zonal Training Centre, SC Railway. Subsequently, however, on 4.3.97, a revised list of only 12 officials was released deleting 20 names contained in the earlier list. It was indicated therein that these (12) officials were being sent for training at the Zonal Training Centre for eventual absorption in vacancies of Goods Guards against 10% departmental and 15% Direct Recruits quota.

The applicants herein are among the ones whose names have been deleted from the earlier select list consequent on its supersession by the later list. Their argument is that the earlier list embodied a right decision to fill up all

2
9/18

existing vacancies of Goods Guards by Switchmen rendered surplus as a one-time dispensation. The subsequent alteration of the list and the deletion of as many as 20 names from it is arbitrary and against the principles of natural justice since no intimation or advance notice was at all given to any ^{select} of them before their names were removed from the original list.

Based on the above pleadings the applicants pray for a direction to be issued to the respondents to post them as Goods Guards in terms of the proceedings issued in February, 1997, and for quashing of the impugned order dated 4.3.97.

2. The respondents in their counter-affidavit submit that, basically, the applicants have no legal right to enforce the reliefs sought by them. It is pointed out that the notification calling for options from Switchmen for absorption in suitable alternate posts contained a clear indication that the mere exercise of option would not vest in them any right of absorption in the posts and that such absorption would be dependent on the suitability and seniority of the optees and the availability of vacancies. The Unions/Associations representing other trades and cadres are opposed to the absorption of surplus Switchmen as Goods Guards against all available vacancies since it would amount to denying similar consideration to other trades/categories specially when percentages and quotas stand duly fixed for each one of them. The approved avenue chart stipulates that besides the switchmen, six other categories/cadres are also eligible to be considered for promotion to Goods Guards and percentages have been laid down for each of them as well. As per the approved quota only 10% of vacancies are earmarked for Switchmen. The South Central Railway Employees Sangh brought to the notice of the Respondents that Train Clerks and Sr. Train Clerks, for example, were entitled to 25% of the vacancies. Against this background the decision of the DRM to throw open all the available vacancies of Goods Guards to only the surplus Switchmen would

9/18
76

give rise to a situation which results in depriving these (other) categories of employees of their respective legitimate quotas. It was therefore decided by the Respondents to re-consider the whole issue, and consequently to curtail ^{and restrict} the list of selected surplus Switchmen to only 12, after duly adding 15% vacancies earmarked for Direct Recruits to 10% of their own share of vacancies. It is added that since the claim of the applicants in this OA affects many other categories of employees, it should have been expected and appropriate to implead the Associations representing those other categories as necessary parties.

In an additional affidavit, the respondents explain that the work relating to the introduction of Central Panel Inter-Locking System could not be completed ^{within a time} as originally planned and, therefore, there was no possibility of considering all selected surplus Switchmen for ~~vacancies~~ vacancies which, though anticipated, had not arisen in the circumstances explained. It is again reiterated that mere issuance of notification calling for applications from Switchmen and subjecting them to a simple suitability test would not confer any right on the applicants to demand consideration for their absorption as Goods Guards.

3. The facts and submissions as projected by the contending parties have been carefully noted.

The applicants have drawn attention to a policy-circular issued by the Railway Board in April, 1989, containing guidelines for absorption/utilisation of surplus staff. The circular was issued after due consultations with the recognised unions/associations. It laid down that advance action for identifying likely areas of surpluses should be planned well in time, and thereafter the recognised unions at all appropriate levels should be advised appropriately regarding the details of staff so likely to be rendered surplus. It was laid down ^{too} that absorption of surplus staff would have the precedence over all other modes of recruitment in order that such personnel could be

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effectively utilised at suitable locations against existing posts as well as those which might be created afresh in future. It was also added that there would be no recruitment in those categories in which surplus staff were likely to be re-deployed or against any posts in which staff were likely to be rendered surplus.

It is evident that the apex policy-making body, i.e., the Railway Board, had laid utmost stress and accorded high priority to the earliest absorption of surplus staff on account of upgradation of technology or due to any other reason.

4. In this case the area of work and category of employees which were likely to throw up surpluses was correctly identified. It also seems possible that the concerned unions/associations were duly notified in this regard and suitably consulted. Although the associations appear to have initially agreed to the absorption of surplus switchmen in all available vacancies of Goods Guards, they had probably some second thoughts in the matter. The re-thinking was based on possibly valid grounds in that the other categories of staff, entitled to consideration for absorption in the post of Goods Guards in proportion to the share fixed for them, would have been denied similar opportunity. Nevertheless, the fact is that the applicants were merely responding to notification/notice issued by authorities in this regard. They had no role other than offering their candidature in response to such notice. The select panel was drawn up and issued after suitability-tests. Under the circumstances, the abrupt curtailment of the list of selected candidates, without notice or intimation, does not appear to be correct or fair. At the same time, the attendant fact that other eligible categories of staff would stand ^{to} lose heavily ^{also} by this one-time dispensation cannot be lost sight of.

22
20/2/2004

5. As regards the contention of the respondents that the applicants should have impleaded in this O.A. the concerned unions/associations of affected employees, the same is not considered valid because the applicants are evidently not seeking any relief against any particular category or association/union. The case of the applicants is based and confined merely to their own claim which arose from their selection in pursuance of a policy-decision in the making of which they had themselves no role to play.

6. An important point which comes into consideration is whether ^{the} percentages fixed for the other ^{in normal conditions} categories would still be applicable when the Board have laid down a clear policy regarding absorption of surplus staff. The present applicants constitute a body of surplus personnel whereas the other categories—Train Clerk, Senior Train Clerk, for example—seem to be insisting merely on their usual percentages which would operate in normal circumstances. In such a situation it is a moot point whether the absorption of the applicants rendered surplus would not take precedence, as a category, over all other modes of recruitment to the cadre of Goods Guards. Such indeed seems to be the thrust and spirit of the instructions issued by the Board. If this assumption is correct, then the applicants have a valid case for insisting on their absorption on the basis of their original selection.

7. The whole issue therefore is one which deserves an urgent intervention of General Manager who has the interests of all groups and categories to safeguard, and balancing such group-interests with operational needs and administrative feasibility. This problem may not be peculiar to Vijayawada Division alone but may have been duplicated in other Divisions too.

Q. /
M. /
JL

Thus it is necessary that the whole question be got examined at the Zonal level for arriving at an equitable and judicious decision in the light of the existing policy-circulars as well as operational and administrative requirements. The General Manager may, therefore, have the case examined, take a suitable decision, and communicate the same to Respondent-2 within a reasonable time, say, within 45 days from the date of receipt of a copy of this order. Until then the select list for promotion/posting to the post of Goods Guards issued by DRM, Vijayawada, vide his memo No. P/T/282/VI/Vol.8 dated 14.2.97 shall remain open. The proceedings contained in DRM, Vijayawada, memo No. P/T/282/VI/Vol.8 dated 4.3.97 shall be subject to any decision that may be taken in ^{the} ~~the~~ matter by Respondent-1.

Thus the O.A. is disposed of.


(B.S. Jai Parmeswar)
Member (Judicial)


(H. Rajendra Prasad)
Member (Administrative)

Dated: 28.8.1997

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Deputy Registrar (D.R.)

71

O.A.401/97.

To

1. The General Manager,
SC Rly, Secunderabad.
2. The Divisional Railway Manager,
SC Rly, Vijayawada Division,
Krishna Dist.
3. The Sr.Divisional Personnel Officer,
SC Rly, Vijayawada Division, Krishna Dist.
4. One copy to Mr. B.Narasimha Sarma, Advocate. CAT.Hyd.
5. One copy to Mr. V.Rajeswar Rao, SC for Rlys, CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to DR.(A). CAT.Hyd.
8. One spare copy.

pvm.

986
8/9/97

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE.
VICE-CHAIRMAN

And

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

The Hon'ble Mr. B. S. Jaisankar : M

DATED:- 28/8/97

ORDER/JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No.

401/97.

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

प्रेषण/DESPATCH

11 SEP 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH