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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 461/97

Date of Order: 2.4.97

BETWEEN:

1. Sri P.Veera Brahmaiah
2. Sri P. Veera Venkata Ramana .. Applicants.

AND

1. The General Manager,
S.C.Rly., Rail Nilayam,
Secunderabad.
2. Divisional Railway Manager,
Vijayawada division,
Vijayawada. .. Respondents.

Counsel for the Applicants .. Smt.Bharathi Devi
Counsel for the Respondents .. Mr.N.R.Devraj

CORAM:

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

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

JUDGEMENT

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Heard Smt. Bharathi Devi, learned counsel for the applicants and Mr.W.Satyanarayana for Mr.N.R.Devraj, learned standing counsel for the respondents.

2. Employment Notice No.2/1996 bearing No.B/P.171/SCT/Spl.

Drive/96/Vol.V, dt. 15.11.96 (A-1) was issued for filling up ~~of 15~~
~~vacancies~~ for special recruitment of ST candidates in Group 'B' ~~vacancies~~
in Vijayawada division, S.C.Railway. The notification was issued as a part of crash programme to fill up the vacancies

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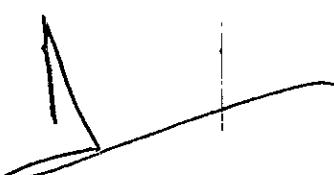
reserved for ST candidates. The appointment is to be made in the lowest grade of Group-D from the open market. The number of vacancies to be filled in ~~this~~^{various} department, and also the designation and category has been shown in the notification. The minimum qualification required for each department is also incorporated in Para-2 of the notification. The applicants along with others applied for the post. It is stated that the two applicants in this OA are not selected against that notification.

3. Hence this OA is filed for quashing the Employment Notice No.2/96 dt. 15.11.96 by holding it as arbitrary and violative of principles laid down in this connection and for a consequential direction to issue fresh notice following the procedure.

4. The main contentions for quashing the notification are discussed as follows:-

(1) ~~In~~ the proforma enclosed to the notification for submission of the application for the above said post, does not indicate the department in which the applicant wants to be recruited. As no other information otherthan what is called for in the proforma cannot be given by the applicants. Hence the applicants are denied opportunity to indicate their preferences for a particular department and that denial of opportunity ~~as~~ ^{is} vitiated the process of selection.

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We have perused the proforma. ^{Under} In serial no.10 of the proforma the applicant is to fill the educational qualification enclosing the copies of the relevant certificates. That ^{according to} information will give the educational qualification and ~~to~~ that qualification the applicant will be fitted in any one of the department indicated in para-2 of the notification. If he has not given the choice it would mean that he should be considered for all the departments in accordance with the educational qualification and will be fitted in the department ^{best} for which he is ~~more~~ suited. Even if he has not given his choice for a particular department he has ~~the department to be~~ considered for all the departments in accordance with the merit ranking. If he is posted to any one of these departments he has option either to accept the same or not to accept the same. In that view we do not find any opportunity is denied to the applicant by not indicating his preference in the proforma. Hence this contention cannot be upheld.

(2) The second contention is that the application should be restricted to those who reside in the area which is controlled by the Vijayawada division for SC Railway. For this the applicant relies on Para-179 (vi) and (x) of the Indian Railway Establishment Manual Volume.I to state that the selection should be restricted to the residents of the Vijayawada division and that appointing from outside the division is irregular.

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As some of the candidates appointed against this notification are from outside Vijayawada division the process of selection has been vitiated. Further the learned counsel for the applicant also submits that preference has given to some of the candidates hailing from Anantapur and they were selected on malafide considerations by R-2.

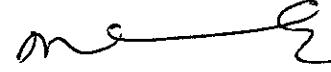
The rule quoted in the IREM is a general guideline for issue of notification. But that does not prevent the authorities to get a suitable candidate even from the outside division. In this connection we would like to observe that the Supreme Court in the reported case 1996 (6) Scale 676 (Exercise Superintendent Malkapatnam, Krishna Dist. Vijayawada Vs. K.B.N. Visweswara Rao) had observed that ^{when ever} ~~even never~~ any recruitment is made wide publicity should be given and the selection should not be restricted only to those sponsored by the Employment Exchange. In view of that the Provisions as incorporated in the manual has to be viewed. ^{that} We are of the opinion if some candidates outside the Vijayawada division had applied their applications should also be considered in view of the directions of the Supreme Court as above. Hence if some of the candidates from Anantapur applied in pursuance of the notification and they were selected on the basis of their merits and suitability it cannot be held that the selection is ^{irregular} ~~irregular~~ on the basis of ~~candidate~~ candidates outside the Vijayawada division. To attribute motive to R-2 record should be produced by the applicant. In this case the applicant only submits that

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there was malafide consideration attributable to R-2 for selecting a candidate from Anantapur. There is no averment in the OA to state that the applicants otherthan Anantapur area from outside Vijayawada division were prevented from applying or even if they applied their cases were not considered and the cases of the candidates from Anantapur area only was considered. When such a situation does not ~~exist~~ the malafides attributed to R-2 is not sustainable.

5. We are of the opinion that the selection has been done in accordance with the notification and the ~~best~~ among those who applied were selected. Hence we do not find any merit in this OA. Hence the OA is dismissed at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGAIAJAN)
Member (Admn.)

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Dated : 2nd April, 1997

(Dictated in Open Court)

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D.R. (J)

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Copy to:

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. Divisional Railway Manager, Vijayawada Division, Vijayawada.
3. One copy to Mrs. Bharathi Devi, Advocate, CAT, Hyderabad.
4. One copy to Mr. N.R. Davraj, Sr. CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

2/4/97

ORDER/JUDGEMENT

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

in

D.A. No. 461/97

ADMITTED INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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II COURT

