

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

D.A.No.521 OF 1997.

DATE OF ORDER: 2-2-1999.

BETWEEN:

T.Muralidhar Rao.

.. Applicant

and

1. Union of India, represented by General Manager, S.E.Railway, Calcutta-43.
2. Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta-43.
3. Chief Administrative Officer (P), S.E.Railway, Bhubaneswar.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.P.P.Vittal

COUNSEL FOR THE RESPONDENTS :: Mr.C.V.Malla Reddy

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.P.P.Vittal, learned Counsel for the Applicant and Mr.C.V.Malla Reddy, learned Standing Counsel for the Respondents.

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2. The applicant in this OA was appointed in South Eastern Railway on 21-5-1983 as a Trainee Inspector of Works after having been selected by the Railway Recruitment Board, Calcutta. The applicant appeared for the 25% vacancies through LDC Examination for the post of AEN(Group-B) in the Civil Engineering Department of the South Eastern Railway. By Order dated:8-5-1992, the applicant was empanelled for the selection year 1988. But by the impugned Order bearing No.DCPO(G)/CON/SB/LDE/2, dated:12-9-1996(Annexure.A1 to the OA), the year of selection of the applicant was brought down to the year of 1990 instead of 1988, and for the selection year 1988 nobody was empanelled as seen from the impugned letter. The applicant submitted a representation for retaining him for the selection year 1988 instead of bringing him down to 1990, vide his representation dated:19-9-1996. That representation was disposed of by letter No.DCPO(G)/COM/CC/CAT/CTC/301, dated:21-11-1996, rejecting his request on the ground that the applicant was wrongly placed above Sri Mahesh-Kumar, and as such it is decided that Sri T.M.Rao will be placed below Sri Mahesh Kumar. It is seen from the impugned Order dated:12-9-1996 that Sri Mahesh Kumar was also placed for the selection year 1990 only and not for the year 1988 replacing the applicant.

3. This OA is filed to set aside the impugned Order No.DCPO(G)/CON/SB/LDE/2, dated:12-9-1996, issued by the General Manager, South Eastern Railway(R-2), by holding

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the same as illegal, arbitrary and violative of the principles of natural justice and not being in accordance with the Railway Board's clarification dated:18-1-1993 (Annexure.A-9), and for a consequential direction to the respondents to restore the name of the applicant against the selection year 1988 instead of 1990, since he fulfilled all the conditions of eligibility in terms of Railway Board's dated:14-8-1987(Annexure A-3), Circular dated:25-4-1981(Annexure A-8), and Circular dated: 18-1-1993(Annexure A-9), and that there are sufficient number of vacancies attributable to the year 1988 against the 25% LDCE quota.

4. The main contention of the applicant is, that/the Railway Board, vide their letter dated:14-8-1987(Annexure A-3), "Employees working in grade the minimum of which is Rs.1400/- and in higher Group'C' grades will be eligible to appear for Group'B' selection provided they have rendered not less than three years of non- fortuitous service in the grade and have reached the pay stage of Rs.2050/-." The applicant fulfilled that condition while appearing for the selection and as per that rule he is entitled for consideration against the selection year 1988. Hence, after fulfilling the conditions set out in the Railway Board's letter dated:14-8-1987, his selection year cannot be brought down. The applicant further adds that the Railway Board by their letter dated:24-2-1993(Annexure.A-9 to the OA), has clearly clarified their earlier letter of 25-4-1981, that the Departmental Examination include Limited Departmental Competitive Examination for promotion to Group'B', and

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by the same letter, it was also clarified that a Railway Servant under training immediately before appointment to service is to be counted as service for the purpose of appearing in departmental examination.

5. The Railway Board's letter dated:12-5-1981, which is clarified by the letter dated:18-1-1993, clearly states that the period of training would count as service for the purpose of appearing in departmental examination. Hence, he claims that there is no doubt in counting his service spent on training also for the purpose of empanelling him for the selection year 1988. The applicant further adds that the respondents had rejected his case as can be seen from the reply to the Promotee Officers' Association by the letter No.DCPO(G)/CON/CC/CAT/CTC/301, dated:21-11-1996 (Annexure.A-7 to the OA), ^{relying} ~~relied~~ on the letter No.E(GP)/79/2/66, dated:16-8-1991, for deleting the training period for the purpose of counting the total period of service. When a subsequent letter dated:18-1-1993 has been issued as a clarification to the earlier letter of 12-5-1981, the letter dated:16-8-1991 issued earlier to 18-1-1993, should be treated as void ab initio and that letter should not be taken into account. Probably, the Railway has not taken into account the Board's letter dated:18-1-1993 and hence, the reply was given to the Promotee Officers' Association taking note of the letter dated:16-8-1991. Hence, the letter dated: 21-11-1996 addressed to South Eastern Railway Promotee

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Officers' Association taking due note of the letter dated:16-8-1991 is irregular. Hence, the letter dated:21-11-1996 is also to be treated as a void letter in the context of this case. The applicant also submits that in case of empanelment for the year 1992, training period of some of the empanelled candidates have been taken for fixing their total year of service. This point also needs consideration.

6. The learned Counsel for the Respondents submits that the letter dated:18-1-1993 will come into force only from 18-1-1993 as informed by the Chief Personnel Officer, South Eastern Railway, ~~but~~ the Railway Board's letter does not state that the clarification given in that letter dated:18-1-1993 will come into force only from the date of issue of the letter dated:18-1-1993. It is clearly seen that, it is a clarification to the earlier letter of 25-4-1981, and hence the required clarification given by the letter dated:18-1-1993 is to be read in conjunction with the earlier letter of 25-4-1981, and hence that clarification will hold good for all the examinations conducted on or after 25-4-1981. The Chief Personnel Officer has ~~no~~ right to change the date of operation ^{as per} ~~of~~ 18-1-1993 letter on his own without being stipulated by the Railway Board.

7. In the reply addressed to the South Eastern Railway Promottee Officers' Association dated:21-11-1996, it has been stated that this matter was highlighted by Sri Mahesh Kumar in OA.No.29 of 1996 filed in the CAT, Cuttack, and hence the case was re-examined and it was

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found that the contention of Sri Mahesh Kumar is correct. This Bench is not aware of the contentions raised in OA.No.29 of 1996 filed by Sri Mahesh Kumar on the file of the CAT, Cuttack. Hence, to pass any order on the basis of the contentions raised in this OA may not be correct. Hence, we restrain to pass any orders even though the record show that bringing down the selection year of the applicant from 1988 to 1990 may not be correct.

8. In view of what is stated above, the applicant, if so advised, may submit a detailed representation bringing all the relevant Circulars to the notice of R-1 and request for retaining his name in the 1988 selection year instead of bringing down to 1990 selection year. If such a representation is received, it is incumbent on the part of R-1 to dispose of his representation within two months by a Speaking Order ^{upholding} passed on the various contentions raised in this OA and also taking due note of the Judgment in OA.No.29 of 1996 on the file of the CAT, Cuttack Bench.

9. In the result, the following direction is given:-

The applicant, if so advised, may submit a detailed representation in regard to his case to R-1. If such a representation is received, that representation should be disposed of within two months from the date of

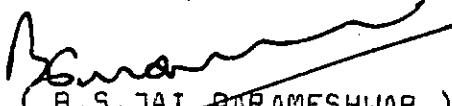
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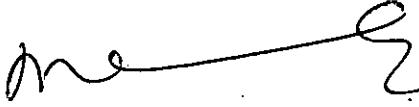
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receipt of that representation
keeping the observations made in
~~this~~ ~~in the~~ Judgment as above
in mind.

10. The OA is ordered accordingly. No costs.

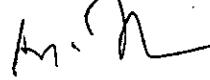

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL)
21/2/99


(R.RANGARAJAN)
MEMBER (ADMN)

DATED: this the 2nd day of February, 1999

Dictated to steno in the Open Court

DSN


M.R.
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15/2/99
Ist and IIInd Court.

Copy to:

1. HDHNJ
2. HHRP M(A)
3. HDSP M(J)
4. DIR. (A)
5. SPARE

Typed By
Compared by

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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE O. H. NASIR:
VICE - CHAIRMAN

THE HON'BLE H. RAJENDRA PRASAD
MEMBER (A)

THE HON'BLE R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. B. S. JAI PARAMESHWAR:
MEMBER (J)

7 copies

DATED: 2/2/99

ORDER/JUDGMENT

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

IN
O.A.NO : 521/92

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

