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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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C.A.286/97.

Dt. of Decision : 17-02-99.

1. D.Raja Rao
2. T.Seetharamaiah
3. T.Themes
4. G.A.Sudershan Rao

.. Applicants.

Vs

1. The Union of India, Rep. by its General Manager, SC Rly, Rail Nilayam, Sec'bad.
2. The Chief Personnel Officer, SC Rly, Rail Nilayam, Sec'bad.
3. The Chief Signal & Telecommunication Engineer, SC Rly, Rail Nilayam, Sec'bad.
4. A.N.Laxman Rao
5. M.Sitarama Raju
6. A.S.Jaganachan
7. K.V.Mohan Rao
8. S.A.Kallimani
9. E.M.Ram Narayana
10. S.Raghava Rao
11. S.K.Mastan
12. C.Mahindra
13. M.A.Nayeem
14. V.A.Yardi
15. C.Mani
16. Y.Madhava Sastry
17. Ch.V.V.Satyanarayana
18. S.K.Ahmed Basha
19. M.Jagannadharao
20. K.S.Rama Murthy
21. D.V.Rama Mohan Rao

.. Respondents.

Counsel for the applicants : Mr.K.K.Chakravarthy

Counsel for the respondents : Mr.V.Rajeswara Rao, Adel.CGSC.

CORAM:-

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

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

J

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ORDER

ORAL ORDER (PER HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J))

Heard Mr.K.K.Chakravarthy, learned counsel for the applicants and Mr.V.Rajeswara Rao, learned counsel for the official respondents. Notice have been served on all the private respondents except R-13 and R-20. As the maximum number of private respondents have been served this order has been pronounced.

2. There are 4 applicants in this CA. The respondents issued notification in April, 1995 through the letter bearing No.B/P.608/5/i/Vol.VII, alerting the candidates for readiness to appear for the written test for the post of Signal Inspector Gr-I in the scale of pay of Rs.2000-3200/- (RSRP) of S&T Department. It is submitted that the designation has <sup>new</sup> been changed as Junior Engineer Gr-II. In the said letter the respondents had alerted 57 candidates and 8 candidates in the reserved list to fill up the 19 vacancies (U.R.-13, SC-2 & ST-4) against 80% departmental promotion quota.

3. The written test was conducted on 15-07-95 and 16-7-95 followed by supplementary written test held on 7-8-95 and 8-8-95. Depending upon the marks secured in the written test 25 employees were declared eligible to appear for the viva-voce. Out of 25, 17 had passed on the basis of the marks accumulated in the written test and the remaining 8 had passed on the basis of the marks obtained in the written test and on addition of national seniority marks. The applicants submit that they were included among the said 8 candidates and they were directed to appear for the viva-voce to be held on 13-11-95. Accordingly the applicants appeared for the viva-voce.

Jk

..3/-

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4. However they submit that the respondent authorities by letter No.Lr.P(SG-608)/S1/Gr.I dated 1-12-95 set aside the proceedings pertaining to viva-voce held on 13-11-95 and decided to conduct viva-voce afresh for all the 25 candidates.

5. The fresh viva-voce was conducted on 14-12-95 and a list was released on 2-1-96 declaring 13 candidates on the provisional panel. In that provisional panel the names of the applicants did not figure.

6. The applicants submitted a representation on 24-1-96 to the R-3. They submit that no action has been taken on their representation.

7. The respondents on the basis of the provisional panel prepared a select list dated 5-2-96 for the 19 posts under CPOSC proceedings No.P/BG-608/S1/Gr-I/Vol.II in which 5 dereservation posts were also filled up. Even in that list the applicants were not included. The applicants submit that juniors to them were in the select panel dated 5-2-96.

8. Hence, they have filed this OA to declare that the selection to the post of Junior Engineer Gr-II in the scale of Rs.2000-3200/- held by the Respondents by the select list dated 5-2-96 as illegal, arbitrary against the rules and for a consequential direction to the respondents to cancel the selection panel dated 5-2-96 and to conduct fresh selection in accordance with the rules considering the case of the applicants.

9. On 8-7-97 an interim order was passed to the effect that if any promotion was going to be made to the post of Section Engineer/Signal in the scale of pay of Rs.2000-3200/- in pursuance of the notification dated 5-6-97, the same should be subject to the outcome of the OA.

*Jr*

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10. The main contention of the applicants in this OA is that the cancellation of the first viva-voce test held on 13-11-95 and conducting the fresh viva-voce on 14-12-95 is irregular. Had the selection been finalised without conducting the viva-voce once again, the applicants would have been empanelled.

11. The above contention was considered by us. If the applicants were aggrieved by the issue of the letter dated 1-12-95 setting aside the proceedings pertaining to the viva-voce which was conducted on 13-11-95 and ordering fresh viva-voce on 14-12-95 the applicants should have challenged that letter dated 1-12-95 before the appropriate judicial forum. Alternatively, they could have obtained an order from the judicial forum to appear for the changed viva-voce test without prejudice to their contentions in that case. Unfortunately, the applicants submitted themselves without any hesitation to the second viva-voce test. Mere submission of the representation against the viva-voce cannot give any benefit to the applicants. The Apex Court has repeatedly observed that an employee having submitted for a selection cannot question the selection if he is not found suitable on the basis of that selection. Hence, this contention has to be rejected.

12. The second contention of the applicants are that they would have come out successfully if the selection proceedings for which viva-voce was held on 13-11-95 was published. With a view to verify the above submission, we called for the records. We find that the applicants had failed in the selection for which the viva-voce was held on 13-11-95 and also in the selection proceedings for which viva-voce was held on 14-12-95. Having failed even in the viva-voce conducted on 13-11-95 no useful purpose will be served in further bearing this OA. Even if the

Or

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selection proceedings have been finalised on the basis of the viva-voce held on 13-11-95 the names of the applicants could not have been figured in the final select list.

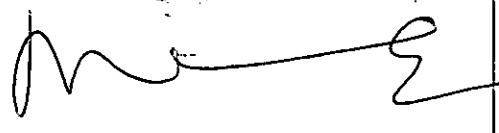
13. Hence, the applicants have no reasons to challenge the selected candidates on the basis of the viva-voce held on 14-12-95.

14. In view of what is stated above, we find no merit in this OA. Hence, the OA is dismissed. No costs.

(The selection proceedings were perused and returned back)

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

17.2.99

  
(R. RANGARAJAN)  
MEMBER(ADMN.)

Dated : The 17th Feb. 1999.  
(Dictated in the Open Court)

SPR

5/3/99

Ist and II Ind Court.

Copy to:

1. DHMNO
2. HHRP M(A)
3. HSSP M(J)
4. D.R. (A)
5. SPARE

Typed By  
Compared by

Checked by  
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD.

THE HON'BLE MR. JUSTICE D. 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 PARAMESHWARI  
MEMBER (J)

DATED: 17/2/99

ORDER/JUDGMENT

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

IN

M.A.NO: 286/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

8. *Varma*

