

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.689/97.

Dt. of Decision : 10-12-98.

1. S.Krishna
2. V.Ravi Sekhar
3. M.S.Samson
4. T.Nagamani
5. M.M.Lingam
6. S.Francis Xavier

..Applicants.

Vs

1. The General Manager, SC Rly,
Rail Nilayam, Sec'bad.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Sec'bad.

..Respondents.

Counsel for the applicants : Mr.Ch.Srinivas

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

CCRAM:-

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 (JUDL.))

None for the applicants. Heard Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. There are 6 applicants in this OA. They are working as Head Clerks in the Railway Administration. Their next promotion is to the posts of Office Superintendent Gr-II in the scale of pay of Rs.1600-2600/-.

3. The respondents issued a notification dated 4-5-97 for formation of panel for promotion to the post of OS Gr-II to fill up 5 vacancies of unreserved candidates.

4. The applicants submit that the respondent authorities have not revised the seniority list in accordance with the principles laid down by the Hon'ble Supreme Court of India in the case of Virpal Singh Chauhan and that filling up the posts without revising the seniority is not proper.

5. Hence, they have filed this OA challenging the notification No.P(C)60500S/II/Rates dated 4-5-97 and for a consequential direction to the respondents to consider the case of the applicants for selection to the post of OS Gr-II by declaring that they are fully eligible and qualified.

6. On 3-6-97 an interim order was passed in this case to the effect that notification dt. 4-5-97 is subject to the outcome in this OA. It is stated that the applicants are agitating against the seniority given to one SC and one ST candidates above them in the eligibility list of those who were called for selection. The said two candidates are not impleaded as parties to this application. Then the learned counsel submitted that the said

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candidates are to be impleaded. The Bench cautioned the applicants that, if at a later date any order that may be passed is detrimental to the said parties, then the applicants stand the risk of their applications being dismissed for want of necessary parties. Despite, the applicants have not chosen to implead the said candidates as parties to this application.

7. The respondents have filed their counter stating that the notification dated 4-5-97 was issued to fill up 5 posts which were unreserved and that the contention of the applicants that seniority list has not been revised is not correct, ~~xx~~ that the Hon'ble Supreme Court in the case of Virpal Singh Chauhan's case has observed (at para-32) that the principle enunciated in the said case will be effective only from 10-2-95 in terms of the said judgement. It has been clarified that the seniority list decided as per the existing rules prior to 10-2-95 need not be disturbed. That the representation dated 7-5-97 was suitably replied by their letter dated 23-5-97 (Annexure-R-4 to the reply) that their contention cannot be accepted and that there is no need to revise the seniority list before filling up the posts as per the notification dated 4-5-97.

8. The main grievance of the applicants is that the respondents issued the impugned notification to fill up the 5 posts of OS Gr-II without revising the seniority list. They rely upon the decision of the Hon'ble Supreme Court in Virpal Singh Chauhan's case. In the said case it is clearly stated that the principle laid down therein is effective from 10-2-95. When that is so the seniority of the officials as on 9-2-95 need not be revised.

9. Further it is stated that the notification is for filling up unreserved posts. The respondents have filed the impugned notification Annexure-R-1 and also the list of officials

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who are within the zone of consideration. They ^{were} ~~are~~ called for the test in accordance with the Order No.P(C)605/OS-II/Rates dated 2-5-97 (Annexure R-1 to the reply). 6 applicants are shown having come up within the field of eligibility. However a candidate B.R.Geeta (SC) and a candidate P.Pradhan (ST) have also been included in the list as they are within the eligibility for selection.

10. The grievance of the applicants appears to be that B.R.Geeta SC candidate and P.Pradhan ST candidate having joined the cadre later than them initially cannot be called for C.S.Gr-II as they are juniors to them in view of the Virpal Singh Chauhan's case. As stated earlier the revision of seniority arises only if the SC or ST candidates have been promoted against the reservation quota after 10-2-95. But those reserved candidates who were promoted to the feeder category earlier to 10-2-95 will assume the seniority from the date of appointment to the feeder category. It is seen from the reply that B.R.Geeta was appointed as Head Clerk on 1-2-89 and P.Pradhan ST candidate was appointed on 8-1-92. Thus both ^{of} ~~of~~ them have been appointed to the feeder category of Head Clerk for consideration for promotion to the post of OS Gr-II earlier to 10-2-95 and hence their seniority will be on the basis of the seniority as on the date of their entry in the cadre of Head Clerk. The list at Annexure-A has been prepared accordingly and hence calling B.R.Geeta for selection to the post of OS Gr-II cannot be treated either as irregular or illegal..

11. It is also seen from the select list that the applicants No.1 and 2 had also been empanelled. The SC candidate having joined as Head Clerk earlier to the applicants No.1 and 2

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she is senior to applicants No.1 and 2 and as she had also qualified in the normal course against the general standard she has been empanelled and shown above the applicants No.1 and 2. The case of the applicants viz., 3 to 6 did not find a place in that panel.

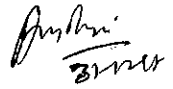
12. In view of what is stated above, we find that there is no irregularity in issuing notification as well as preparing the panel for selection to the post of OS Gr-II.

13. Hence, the OA is liable only to be dismissed. Accordingly, the OA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
10.12.98


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 10th Dec. 1998.
(Dictated in the Open Court)


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 10-12-98

~~ORDER/JUDGMENT~~

~~MA/R.A./C.P.No.~~

DA.NO. 689/97

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

~~DISMISSED~~

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 6 JAN 1999
HYDERABAD BENCH