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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDRABAD

ORIGINAL APPLICATION NO.1018 of 1997

DATE OF ORDER: 6th APRIL, 1999

BETWEEN:

A.DAMODARA RAO

.. APPLICANT

and

1. Union of India rep. by
the Secretary, Railway Board,
New Delhi,
2. The Divisional Railway Manager,
South Eastern Railway (P),
Waltair,
3. The Divisional Personnel Officer,
S.E.Railway, Waltair.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.N.RAMA MOHANA RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, SC for Rlys.

CORAM:

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

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

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Siva for Mr.N.Rama Mohana Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned standing counsel for the respondents.

2. A notification was issued for filling up the single post of Labour Supervisor in the scale of pay of

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Rs.1400-2300/- (RPS) in the Commercial Department of Waltair Division of South Eastern Railway. A copy of the the said notification No.WPY/48/Lab.Supr., dated 30.9.96 was produced today. It is stated in that notification dated 30.9.96 that "It is proposed to fill up the single cadre post of Labour Supervisor in Scale Rs.1400-2300/-RPS by willing optees from the category of Commercial Clerks of both Goods and Coaching Wings in Scale Rs.1200-2040/-RPS by means of regular selection process of a Written Test followed by Viva-voce Test."

3. In response to that notification, dates for written examination and viva-voce examination were fixed by the letter No.WPY/48/Lab.Supr., dated 27.11.1996. In that letter there are 18 willing optees to be examined for filling up that single cadre post. No one was selected.

4. The applicant submits that he is senior and if the seniority mark is added, he would have come up for selection and thereby he would have empanelled for the post of Labour Supervisor. As seniority marks were not granted, he lost his chance for selection and posting in the post of Labour Supervisor on the basis of that selection.

5. This OA is filed for declaration that the action of the respondents in not adding up the seniority marks to the marks obtained in the written test for determining the eligibility for being called for viva voce test, is violative of the guidelines given by the Railway Board in respect of the post of Labour Supervisor while it is being followed in respect of Commercial Inspectors and for


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consequential direction to the respondents to include the marks for the seniority to the marks obtained for written test and consider the eligibility for calling the suitable candidates for *viva voce* test.

6. The seniority marks can be added only in case promotion is given in a single seniority unit by calling the required number as per the Recruitment Rules. Normally, to fill up a cadre post by promotion, eligible candidates from the feeder cadre, to the extent of three candidates, are called. In that case the question of adding the seniority marks will arise.

7. The Supreme Court in the reported case in 1996 SCC (L&S) 890 (*M.Ramjayaram v. General Manager, South Central Railway and others*) had held that the seniority marks should not be given if promotion is not in a particular cadre and the post is filled by calling volunteers from the various seniority groups. In that light, the case has to be reviewed.

8. As can be seen from the letter dated 27.11.96, 18 candidates were alerted for the selection. Only one post was to be filled up. Hence the question of alerting 18 candidates, if it is a cadre post, does not arise. When there is only one post, normally four candidates in the feeder category are alerted for selection. As 18 candidates were alerted, it definitely goes to prove that the selection is not for promotion in the same seniority unit. It is being done by calling optees from the appropriate group. Even though all 18 candidates belong to the Commercial cadre, it does not mean that the post of Labour Supervisor is in the cadre. It may be a post outside the cadre and Commercial staff are only eligible for selection. The notification dated 30.9.96 clearly

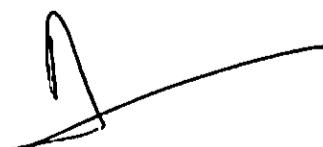
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states that willing optees were to be called for to fill up that post. The extracted portion as above clearly indicates that it is not a cadre post for promotion and it is only the post outside the cadre to be filled by willing optees. Hence the question of giving seniority marks does not arise in view of the Supreme Court judgment referred to above.

9. The learned counsel for the applicant brought to our notice that though such an instruction for not awarding the seniority marks was issued by the Railway Board, the same was cancelled by the South Central Railway by order No.P(R)648/CAT/III, dated 1.12.98. When we questioned the learned standing counsel for the respondents as to how this circular dated 1.12.98 was issued, the learned standing counsel for the respondents submitted that the said circular was issued by the South Central Railway and not by the South Eastern Railway. The applicant in this OA belongs to South Eastern Railway and the rules and regulations in force in South Eastern Railway will be applicable to the applicant. The circular dated 1.12.98 being a South Central Railway circular, it is not applicable in the case of the applicant.

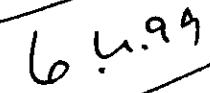
10. The above submission appears to be in order as Group-C employees are controlled by the Zonal Railways. Further, the direction of the Supreme Court cannot be flouted by the Zonal Railways. Hence it is not necessary for us to take note of the circular of South Central Railway dated 1.12.98 to decide this case.

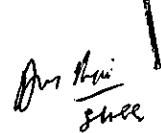


11. In view of what is stated above, non awarding of the seniority marks by the respondent-authorities is in order for selection to the post of Labour Supervisor. In that view, the OA is liable only to be dismissed and accordingly it is dismissed. No order as to costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)


6.4.99
DATED : 6th APRIL, 1999
Dictated in the open court


Amma
Sree

vsn

COPY TO:-

1. HONJ
2. HHRP M(A)
3. HDSJP M(B)
4. B.R. (A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

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

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

THE HON'BLE MR.R.RANGARAJAN :
MEMBER (A)

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

DATED: 6/4/99

ORDER / JUDGEMENT

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

IN

C.A. No. 101897

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

SRR

6 MAY 1999

