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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

D.A.No.1060 OF 1997.

DATE OF ORDER:18-12-1998.

Between:

J.A.K.Satyendarayana Murthy. .. Applicant

and

1. The Chairman,
Railway Recruitment Board,
South Central Railways,
Secunderabad-Andhra Pradesh.
2. The Senior Divisional Personnel
Officer, South Central Railways,
Vijayawada-520 003.
3. The Assistant Personnel Officer
(Mechanical), South Central Railways,
Vijayawada-520 003.

.. Respondents

UNSEL FOR THE APPLICANT :: Mr.M.P.Chandramouli

COUNSEL FOR THE RESPONDENTS:: Mr.K.Siva Reddy

CORAM:

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

AND

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

: ORDER :

ORAL ORDER (PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J))

Heard Mr.M.P.Chandramouli, learned Counsel for the
Applicant and Mr.K.Siva Reddy, learned Standing Counsel
for the Respondents.

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2. In response to the Notification No.2/95 issued by the Railway Recruitment Board, Secunderabad, the applicant submitted his candidature for the post of Apprentice Diesel/Electrical Assistant. The respondent-authorities offered him the appointment through letter No.B/P.135/IDT/Rg/App.Del/Elec.Asst., dated:26-5-1997 (Annexure.IV, page.12 to the OA). When the applicant appeared before the respondent-authorities, they insisted upon the production of a fresh Caste Certificate.

3. Being aggrieved by the insistence of the respondents to produce a fresh Caste Certificate, the applicant has filed this OA for a direction to the respondent-authorities to appoint him as Diesel/Electrical Assistant in Category-V in South Central Railway by declaring their action in insisting for a fresh Caste Certificate as arbitrary, illegal and without jurisdiction.

4. The respondents have filed their reply. They rely upon the Railway Board's letter No.94-B(SCT)1/31/2, dated:29-11-1994 and contend that the persons detailed therein are alone empowered to issue Schedule Caste/ Scheduled Tribe Certificates. Hence, the Caste Certificate issued by Hazur Sheristadar is not in order. Thus they justify the action of the respondents. In the said letter, it is stated that the Tahsildar is competent to issue the Caste Certificate.

5. The certificate produced by the applicant has been issued by Hazur Sheristadar & Ex.Officio II Class Magistrate, Visakhapatnam. It is dated:23-4-1984. It

is at page.8 enclosed to the representation dated: 20-11-1996, (Annexure.I to the DA).

6. The respondents relying upon the Railway Board's Letter contend that the Huzur Sheristadar is not a Competent Authority to issue the Caste Certificate. On the otherhand the learned Counsel for the Applicant relied upon the A.P.Revenue Service Rules to contend that the Huzur Sheristadar is equivalent to Tahsildar. By G.O.Ms.No.1250(Revenue), dated:25-11-1976, the authorities have been enumerated to include as Tahsildar. We reproduce herein:-

"(c) 'Tahsildar' shall mean and include Taluk Tahsildars, Huzur Sheristadars, Lankas Tahsildars, Tahsildars on Settlement duty, Sheristadars on settlement duty, District Social Welfare Officers, Additional District Social Welfare Officers, Tahsildars on special duties, Revenue Assistants and Tahsildars working as Block Development Officers."

7. In view of this G.O.Ms. dated:25-11-1976, the Huzur Sheristadar is equivalent to the Tahsildar and accordingly the Caste Certificate issued to the applicant by the Huzur Sheristadar on 23-4-1984 is a valid one even as per the Railway Board's letter dated:29-11-1994. Hence, the respondents were not justified in insisting upon the applicant to produce a fresh Caste Certificate.



8. The respondents may rely upon the said Caste Certificate enclosed as an enclosure to Annexure.I to the OA and offer him the appointment provisionally. The learned Counsel for the applicant submits that there may not be any need to appoint him provisionally but he may be appointed and a verification of his Caste Certificate may be made in accordance with the rules.

9. He relies on the Judgment of the Supreme Court, reported in 1997 SCC 505 in R.KANDA SWAMY Vs CHIEF ENGINEER, MADRAS PORT TRUST.

10. We have perused the Judgment. The Apex Court also gave liberty to the respondent-authorities therein to check the correctness of the Certificate for which if there was any doubt. The respondents are likewise permitted to hold a proper enquiry and on that only if the certificate is disputed, appointment of the applicant may be terminated.

11. When an enquiry has to be conducted and on that basis the legitimacy or authenticity of the Certificate has to be ascertained, we do not see any reason to delete the word "provisional appointment" which in no way handicaps the applicant from discharging his duties. If appointment is made without indicating his provisional appointment, later it will cause complications as the Diesel Assistants submission have to be rejected. In view of the above, we feel that there is nothing wrong to appoint the

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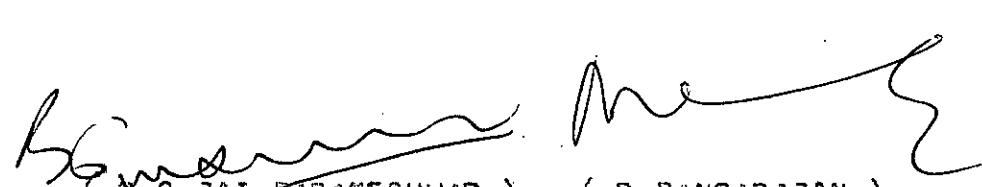
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applicant provisionally and as stated earlier this
will no way handicap the applicant in discharging
his duties.

12. In view of the above, the following direction
is given:-

The applicant should be appointed
provisionally as a Diesel Assistant
in terms of the appointment order
issued by the Respondent-authorities
dated:26-5-1997 (Annexure.IV to the
OA) without insisting on submission
of a Fresh Caste Certificate. However,
the Respondents are at liberty to
check the genuineness of the Certifi-
cate through an appropriate authority
and decide the issue in regard to his
continuance in the post against the
ST quota.

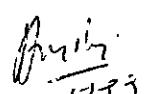
13. The OA is ordered accordingly. No costs.


T.V.S.JAI PARAMESHWAR) (R.RANGARAJAN)
MEMBER (JUDL) MEMBER (ADMN)

18.12.98

DATED: this the 18th day of December, 1998

Dictated to steno in the Open Court


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DSN

II COURT

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

Copy to : —

1) WBSSP

2) D.R (A)

3) Speer

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: 18/12/98

ORDER/JUDGMENT

MA/R.A./C.P.No. —

in
DA.NO. 1060/97
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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