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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
HYDERABAD

O.A.NO.1439 OF 1997.

DATE OF ORDER: 17-8-1997.

BETWEEN:

1. S.P.Rami Reddy.
2. D.Ramaiah.
3. A.Haumantha Rao.
4. B.V.S. Ramamohan Kumar.
5. S.V.Subba Rao.

....Applicants

And

1. General manager, S.C.Railway, Rail Nilayam, Secunderabad.
2. Divisional Railway Manager, S.C.Railway, Vijayawada Division, Vijayawada.
3. Sr.Divisional Personnel Officer, S.C.Railway, Vijayawada Division, Vijayawada.
4. M.Bhaskar, Traffic Inspector (HQs), Sr.DOM Office, S.C.Railway, Vijayawada Division, Vijayawada, Krishna District.
5. F.A.Kamalapathy, Traffic Inspector (HQs), Sr.DOM Office, S.C.Railway, Vijayawada Division, Vijayawada, Krishna District.
6. Md.Abdul Rub, Station Superintendent, Bikkavolu, East Godavari District, S.C.Railway.

.....Respondents

COUNSEL FOR THE APPLICANTS :: Mr. M.C.Jacob
COUNSEL FOR THE RESPONDENTS :: Mr.J.R.Gopal Rao

CORAM:

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

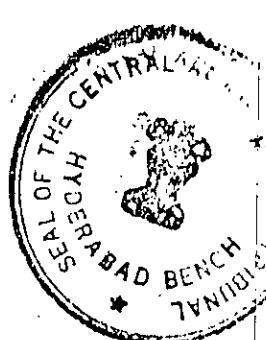
THE HON'BLE SRI B.S. JAI PAKAMESHWAR, MEMBER (JUDL.)

: O R D E R :

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

Heard Mr. M.C. Jacob, learned Counsel for the Applicant and Ms. Shakti for Mr.J.R.Gopal Rao, learned Standing Counsel for the Official Respondents. Mr.Cholai, Sr. Personnel Officer was present. Notice served on Private Respondents 4 to 6, called absent.





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2. There are five (5) applicants in this OA. They were selected for the post of Traffic Apprentices after 27-7-1990, (Annexure-II, page 12 to the OA). They are at Serial Nos.19, 24, 26, 36 and 38 of the list. They were subjected to Final Retention Test for granting them the higher scale of Rs.1600-2660/-, after the Traffic Apprentice posts were upgraded from Rs.1400-2300/- to Rs.1600-2660/-.

3. The Ministry of Railways issued a Circular bearing No.E(NG)II/84/RG.3-15/(AIRF), dated 15-5-1987, (Annexure-VII, page 25 to the OA), for recruitment of Traffic/Commercial Apprentices. As per Sub.para (iii) of Para.2 of that Circular, 10% of the posts were car-marked for departmental candidates. The Traffic or Commercial Apprentices who were in the earlier grade of Rs.455-700/1400-2300/- were also empanelled for consideration against the 10% quota. The relevant instruction of this Circular in this connection is at Sub.Para (xv) of Para.2. This Para reads as below:-

'(xv). Traffic/Commercial Apprentices working in the lower scale of Rs.455-700 (RS)/1400-2300 (RP) and 470-750(RS)/1400-2600(RP) in getting selected for recruitment in the higher scale of Rs.550-750 (RS)/1600-2660(RP) as per the above provisions, will not be required to be sent for training again. They will, however, have to appear for and qualify in the final retention test along with their batchmates and their seniority will be regularised as per normal rules along with other candidates in that batch.'

4. The applicants underwent the training and were subjected to a final examination. The Private Respondents 4 to 6 were posted in the higher grade of Rs.1600-2660/- and they were assigned seniority above that of the applicants.

5. In view of the change of grade, the seniority of the applicants vis-à-vis the seniority of the private respondents 4 to 6 has been shown in the Memorandum bearing No.B/P.612/VI/1/Vol X., dated 28-2-1997, (Annexure-IV, page 16 to the OA).

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The private respondents 4 and 5 were shown above that of the applicants in that Memorandum of seniority, whereas the private respondent no.6 was shown senior to the applicants 4 and 5.

6. The applicants aggrieved by the seniority shown has filed this OA to show the respondents 4 and 5 below that of the applicants and on that basis call them for selection to the grade of Rs.2375-3500/-.

7. A Select List for the post of Traffic Apprentices in the scale of pay of Rs.1600-2660/- was issued by Order No. (T) 99/TA/Vol.IV, dated 27-7-1990, (Annexure.II, page 12 to the OA). In that list the respondents 4 to 6 have been shown above the applicants as stated above. The applicants submit that the seniority as fixed in the Select List is not the final one. It is only the position obtained after the training that will decide the seniority of the applicants vis-a-vis the respondents 4 to 6. The applicants were subjected to the Selection at the end of the Training and the respondents 4 to 6 were not subjected to Final Assessment Examination. This is against Sub Para.(xv) of Para.2 of the Circular dated 15-5-1987. Though the respondents 4 to 6 were earlier in the scale of pay of Rs.1400-2300/- as Traffic Apprentices, the only exemption given to them by that Para is that they need not attend the Training but they should attend the Final Assessment Test to fix their seniority vis-a-vis the applicants herein in the higher grade of Rs.1600-2660/-. As the private respondents 4 to 6 were not subjected to the Final Assessment Test, showing them above the applicants who attended the Final Assessment Test and passed the examination is irregular and hence the applicants should be given the seniority above that of the private respondents.

8. The learned Counsel for the Applicants also relied on Sub.Para.(x) of Para.2 of the said Circular dated 15-5-1987, wherein it is stated as follows:-





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(x) The syllabus for training of Traffic as well as Commercial Apprentices will be recast and updated with a view to broad-basing it so that Apprentices of one department get adequate training relevant to the other department also.

From the above para it is to be understood that there may be variation in the training syllabus for those who were trained after the introduction of the new scale of pay of Rs.1600-2660/- and those who were trained earlier to the introduction of the scale of pay of Rs.1600-2660/-.

9. A reply has been filed in this OA. The main contention of the respondents in this reply is that the private respondents 4 to 6 had attended the initial training course during the period from 10-8-1982 to 16-8-1985 at Zonal Training School, Mouliji, Hyderabad, and practical training in the divisions and they have been subjected to a final assessment test as prescribed in the syllabus and passed the final test. For that, the respondents relied on the copy of the CPO, Secunderabad, letter No.P/Trg./563/Tsc.App., dated 6-11-1985. As the private respondents have underwent the final assessment test earlier to the applicants herein, they were shown senior to the applicants herein.

10. From the above submissions of both the parties, it is to be seen whether the final assessment of the respondents 4 to 6 is done as per the syllabus which was introduced after the introduction of the higher pay scale of Rs.1600-2660/- As the scale of pay of Traffic Inspectors earlier to 1987 was in a lower grade, it may be possible that the syllabus for final assessment may be at a lower level compared to that of the training syllabus after the introduction of higher scale of pay. The applicants who are Traffic Apprentices, underwent the training after introduction of the new higher scale of Rs.1600-2660/-. Hence, a doubt lingers on to know whether the assessment made for respondents 4 to 6 is on the same syllabus, which was introduced after the introduction of the higher scale of Rs.1600-2660/- for the post of Traffic

Inspectors. If the syllabus do not agree or if it is considered that the syllabus of the Traffic Inspectors who under-went the training earlier to the introduction of the higher scale of pay of Rs.1600-2660/- is of a lower standard, then, granting higher seniority to the respondents 4 to 6, just because they under-went the training earlier to the applicants herein, may not be an appropriate order. Hence, we have asked both sides to produce the syllabus which existed earlier to the introduction of the higher scale of pay Rs.1600-2660/- and the syllabus after the introduction of higher scale of Rs.1600-2660/- so as to compare both of them.

11. The learned Counsel for the Applicant relying on Sub.Para (x) of the Circular dated 15-5-1987, submitted that both the syllabus are different and the syllabus have to be recast and updated with a view to broad-basing it so that Apprentices of one department get adequate training relevant to the other department also. But we are not satisfied with that submission. Hence, we asked the learned Counsel for the Applicants to produce the syllabus that was in vogue earlier to the introduction of the higher scale of Rs.1600-2660/-. Today, the learned Counsel for the Applicants produced a syllabus. It was dated 25-1-1990 i.e., after the introduction of the higher scale. He could not produce the syllabus that was in vogue earlier to the introduction of the higher pay scale. Hence, the applicants did not comply with our orders and tried to produce the syllabus, which is not in consonance with the orders passed. The applicants could have easily stated on the earlier occasion that it ^{was} not available with them. But instead of saying so, they tried to impress upon us that they have ^{were} two syllabus and that ^{would} be produced. This sort of submission, in our opinion, is unwarranted and uncalled for. Such tendency should be curbed by the applicants in future.

12. We have also asked the learned Counsel for the Respondents to state whether the syllabus ^{was} same. Sri Cholai, Sr.Personnel Officer, who was present on 6-8-1999, fairly submitted that there is no change in the syllabus. We also cautioned him that if it is going to be otherwise, he may have to explain his conduct in submitting as above.

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Today, the learned Counsel for the Respondents produced the syllabus, which was produced by the learned Counsel for the Applicants also dated 25-1-1990. Hence, in our opinion, Sri Cholai has submitted without checking the details. Hence, we are of the opinion that Sri Cholai has not checked any details and submitted just to get out of the situation. We deplore that tendency. This observation of ours should be brought to the notice of the Respondent No.1, so as to counsel him suitably, so that, in future such submission without checking the records may not recur.

13. In view of the situation as stated above, it is essential that the private respondents 4 to 6 should now be subjected to a final assessment test on the basis of the same syllabus with which the applicants were put to test. It is also to be ensured that the questions now put before the private respondents 4 to 6 as a final assessment test should be more or less on the same lines as that of the applicants herein. On the basis of the marks obtained by them, the seniority between the applicants and the private respondents 4 to 6 should be decided.

14. Though it may be argued that the applicants having passed in the year 1992 itself, their seniority cannot be brought down if the private respondents 4 to 6 are put to test now and the results are announced. We do not agree with that contention. A view has been taken by the respondents in showing the respondents 4 to 6 above that of the applicants as it is stated that the respondents 4 to 6 had passed the examination earlier. But we do not agree with that submission. We feel that the view taken by the Official Respondents is erroneous. Hence, we are correcting that error by the above Order. In that view, the private respondents 4 to 6 cannot lose their seniority, if they are otherwise eligible to be kept above the applicants in seniority on the basis of the examination even if they undergo the examination in the year 1999.

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