

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.564/99

Date of Order : 8.3.2000

BETWEEN :

K.V.Nagender Kumar

..Applicant

AND

1. General Manager,  
(Rep. UOI) S.C.Rly.,  
Rail Nilayam, Secunderabad.

2. Chief Personnel Officer,  
S.C.Rly., Rail Nilayam,  
Secunderabad.

3. Sr.Divisional Personnel Officer,  
Guntakal Divisional OFFICE,  
S.C.Railway, Guntakal.

4. Sr.Divisional Engineer/Co-ordination,  
S.C.Railway, Guntakal Division,  
Guntakal.

5. P.Nalini Rama Rao  
Section Engineer/P.Way/USFD,  
S.C.Railway, Vijayawada. ..Respondents.

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Counsel for the Applicant ..Mr.S.Ramakrishna Rao

Counsel for the Respondents ..Mr.V.Rajeswara Rao

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CORAM:

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

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

O R D E R

)(As per Hon'ble Shri B.S.Jai Parameshwar, Member(J) )

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Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing

counsel for the respondents. Notice served on R-5. In view of the direction that is going to be given we think his presence is not necessary.

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2. The applicant was appointed as Apprentice Permanent Way Inspector/Grade-III on 13.4.83 and after undergoing training was posted to work at Jalna on 16.1.84 in Hyderabad (MG) Division. He was absorbed in the scale of Rs.425-700. He was further promoted as PWI Grade-II w.e.f.26.11.93 posting him to Guntakal in BG Division. The cadre of PWI has been redesignated as Junior Engineer and as such the applicant is working as Junior Engineer Grade-I/P.Way/USFD under the office of Senior Section Engineer, Guntakal.

3. R-2 issued circular letter dated 13.9.95 proposing to conduct a selection for filling up of 28 vacancies of JE/P.Way-II/USFD (indicating 22 unreserved posts) in the scale of Rs.2000-3200 (RSRP) in Civil Engineering Department which is an ex-cadre post of JE/P.Way. The applicant applied for the said post on 26.10.95..

4. R-3 issued a letter dated 26.2.96 forwarding list of candidates who had volunteered for the excadre post of JE/P.Way in which the applicant's name stands at Sl.No.1. The written test was proposed to be held on 2.3.96. But the same was postponed indefinitely.

5. The applicant <sup>later learnt</sup> understood that the examination for selection to the excadre post of PWI/Gr-I was held on 4.5.96 without intimating ~~to~~ him and viva-voce also conducted on 11.7.96. R-2 issued office order dated 25.9.96 promoting 12 officials filling up the post of

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JE/P.Way/USFD to the extent of 12 vacancies in which the immediate junior to the applicant by name Sri Nalini Rama Rao i.e. R-5 was also promoted.

6. Then the applicant made a representation dated 26.8.96 bringing out the lapse on the part of the administration in not informing <sup>him</sup> and <sup>for</sup> conducting supplementary examination for the applicant. He made reminder representations also. Thereafter, R-4 by his letter dated 17.2.97 forwarded his representation to R-2 for consideration and there was no response to the representations. The applicant made another appeal dated 15.1.98 and 26.3.98 to R-1 which was forwarded by R-4 to R-3.

7. The applicant has filed this OA to direct R-2 to conduct supplementary written examination for the post of JE/P.Way/USFD pursuant to the notification dated 13.9.95 as the reasonable opportunity was not given to the applicant by not intimating the date of written examination and viva-voce test declaring the action of the respondents as arbitrary, illegal and for a consequential direction to the respondents to grant the seniority and monetary benefits w.e.f. 25.9.96 i.e. from the date his immediate junior was empanelled and promoted to the post of JE/P.Way/USFD.

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8. The respondents have filed a reply stating that the written examination was fixed on 4.5.96 and the intimation letter was circulated to all the division to advise all concerned volunteers. The applicant submits that he was not advised. The respondents submit that in the same unit one Sri R.Krishnan who was working as JE/I/P.Way in USFD Organisation, Guntakal had attended the written examination held on 4.5.96. When Sri Krishnan knew about the later date of written examination as 4.5.96, the respondents submit that there was no reason whatsoever to come to the conclusion that the applicant was not aware of the date. Further, it is stated that out of 32 volunteered employees only 17 employees had attended the written examination and 16 employees remained absent. None of those absentees has represented that the fixation of the written examination on 4.5.96 was not known to them. Hence the applicant for the reasons best known to him states that he was not aware of the fixation of the date of the examination and prays for the reliefs. Hence in the opinion of the respondents it is not warranted.

9. When Sri Krishnan who was working as JE/I/P.Way in USFD organisation attended the written examination knowing the date of examination as 4.5.96 we do not think that the applicant was unaware of the date of

the fixation of the examination. Probably, the applicant was not prepared at that time and hence he now requests for supplementary examination. For an ex-cadre post supplementary examination cannot be conducted. Hence the request of the applicant cannot be accepted.

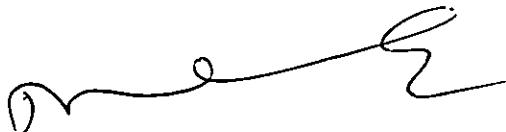
10. There is no reason to believe that all of them who failed to appear for the written examination held on 4.5.96 knew the date and for reasons best known to them remained absent. Similar is the case of the applicant also.

11. The applicant has not rebutted the views expressed by the respondents by filing a rejoinder even though vehemently says in the OA affidavit that he was not aware of the date of the fixation of the examination on 4.5.96.

12. In view of the above, we find no merit in this OA and hence the OA is dismissed. No costs.

  
(B.S.JAI PARAMESHWAR)  
Member(Judl.)

8/3/00

  
R.RANGARAJAN  
Member(Admn.)

Dated : 8th March, 2000

(Dictated in Open Court)

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