

59

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.7/99.

Dt. of Decision : 8-7-99.

Smt. Rahima Sujeevan

..Applicant.

Vs

1. The Union of India,
Rep. by its General Manager,
SC Rly, Rail Nilayam, Sec'bad.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam, Sec'bad.
3. ~~Mr~~ S.V.Chowdhary

..Respondents.

Counsel for the applicant : Mr.G.Ramachandra Rao

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

CORAM:-

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 R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.G.Ramachandra Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents. Notice served on R-3. Called absent.

2. The applicant in this OA was promoted as Head Clerk by on 5-8-97. It is stated ~~that~~ the respondents that she has been promoted on adhoc basis on that day. A notification was issued bearing No.P.TP/605/O.S.II/Vol.IV dated 26-02-98 for selection to the post of OS Grade-II in the scale of pay of Rs.5500-9000/-. The name of the applicant finds a place at Sl.No.15 for appearing for that selection. The number of vacancies to be filled on the basis of the selection was 5 UR, 1 SC and Nil ST. ^{available} The written test held for that selection on 28-3-98 was announced by the memorandum No.P.TP/605/O.S.II/Vol.IV dated 29-04-98 (Annexure-V to the OA). The name of the applicant finds a place at Sl.No.3 of the candidates who qualified in the selection. As stated earlier there were 5 posts for OC and as the applicant being an OC was in third place and hence she was entitled for the viva-voce test. However her name was deleted by the letter No.P.TP/605/O.S.II/Vol.IV dated 29-12-98 ^{larmarkwfw} (Annexure-VIII to the OA) as the number of posts of UR was reduced from 5 to 4.

3. This OA is filed for setting aside the impugned proceedings No.P.TP/605/O.S.II/Vol.IV dated 29-12-98 (Annexure-VIII to the OA) and for a consequential direction to include the name of the applicant for selection to the post of OS Grade-II with all attendant benefits.

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4. A reply has been filed in this OA. The respondents contend that the number of posts earmarked for UR was reduced from 5 to 4 as the initial assessment of vacancies was found to be wrong as one anticipated vacancy ~~will~~ ^{did} not arise. Further it is contended that the applicant was not eligible for consideration for the post of OS Grade-II on the date of issue of the notification dated 26-2-98 as on that date she was only an adhoc Head Clerk. In view of that the deletion of the name of the applicant from those who passed the written test by the impugned proceedings dated 29-12-98 is in order.

5. As regard the first contention that one anticipated vacancy will not arise and because of that the number of vacancies to be filled by UR candidate is reduced to 4 is a valid submission on the part of the respondents. Hence the applicant cannot question the reduction of the vacancy earmarked for UR from 5 to 4.

6. Whether that reduction will jeopardise the case of the applicant for consideration to the post of OS Grade-II is the next point for consideration. The respondents submit that the applicant was an adhoc Head Clerk on ~~that~~ the date of issue of the notification dated 26-2-98. As the applicant should possess the necessary qualification of being a regular Head Clerk on the date of notification is not fulfilled, ~~her~~ ^{the} deletion of her name is in order.

7. The learned counsel for the applicant brought to our notice the Railway Board's letter No. PC/V/97/1/11/24 dated 17-8-98 (RBE No. 186/98) addressed to GM's, All Indian Railways, Production Units and Others. This letter deals with the

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upgradation of 10% posts of Senior Clerks in the scale of Rs.4500-7000 to the post of Head Clerk in scale Rs.5000-8000/- as per the 5th Central Pay Commission recommendations. That letter came into force with retrospective effect from 1-1-96. The learned counsel for the applicant submits that in view of the Railway Board's letter dated 17-8-98 the applicant was promoted as Head Clerk with retrospective effect from 1-1-96 by the order No.P.TP/535/Clerks/Vol.V dated 27-10-98. Hence the applicant fulfilled the conditions for consideration of her case for the post of OS Grade-II on the date of issue of the impugned notification dated 29-12-98 as she was a Head Clerk on that date in view of her retrospective promotion to the post of Head Clerk by order dated 27-10-98. Hence rejection of her case as she was not a regularly promoted Head Clerk on the date of the issue of the impugned notification dated 29-12-98 is not in order.

8. The learned counsel for the respondents even though accepted that she was promoted with retrospective effect from 1-1-96, he submits that since that she confirmed on her later than 26-2-98 she cannot claim any benefit because of her retrospective promotion to the Head Clerk by order dt.27-10-98.

9. We have considered the above contentions. The applicant no doubt was promoted w.e.f., 1-1-96. The examination has been was not completed till to-day. It has been kept in abeyance because of the interim order dated 4-1-99. As per the interim order the applicant shall be called to face the viva-voce test scheduled to be held on 5-1-99, or any other subsequent date, for the selection of Office Superintendent Gr.II. The results of the interview in respect of any candidate shall not however be announced until further orders. We do not think it fit to reject her case because she was not promoted on regular basis on

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the date of issue of the notification dated 26-2-98 as that position has been changed because of promoting her with retrospective effect from 1-1-96. When such an order is available it will be incorrect to reject her case just because the order dated 27-10-98 was issued later and especially so when the selection itself is not finalised. She should have deemed to have been qualified for selection to the post of OS Gr-II in view of her retrospective promotion to the post of Head Clerk by order dated 27-10-98. In that view the deletion of her name should be ~~set aside~~ ^{by} ~~included~~ for calling for the viva-voce test. As she had already been called for viva-voce in view of the interim order dated 4-1-99 the results should be announced now. If she is found fit for empanelment her case should be considered in accordance with law.

10. With the above direction the OA is disposed of.

No costs.

B.S.JAT
(B.S.JAT PARAMESHWAR)
 MEMBER (JUDL.)
 8/7/99

R.RANGARAJAN
 (R.RANGARAJAN)
 MEMBER (ADMN.)

Dated : The 8th July, 1999.
 (Dictated in the Open Court)

Am. 11: 11/7/99

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