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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

No. O.A.949 of 1999.

DATE OF ORDER : 12.6.2000

BETWEEN :

1. D.Lakshminarayana S/o Late Damasi.
2. N.L.N.Raju S/o Late N.S.N.Raju.
3. Dilip Kumar S/o Dev Kumar.
4. K.China Satyanarayana S/o Venkateswara Rao.
5. K.Jagannadha Rao S/o K.K.Rao.

... Applicants

A N D

1. The Railway Board,
represented by its Chairman,
New Delhi.
2. The South-Eastern Railway,
represented by its General Manager,
Head Office, Garden Reach,
Calcutta.
3. The Divisional Railway Manager,
South-Eastern Railway,
Visakhapatnam.
4. The Sr.DME/Diesel,
Diesel Loco Shed,
Visakhapatnam.

... Respondents

Counsel for the applicants : Mr.V.Ajaya Kumar.

Counsel for the respondents: Mr.C.Venkata Malla Reddy.

C O R A M :

1. The Hon'ble Mr.Justice D.H.Nasir, Vice-Chairman.
2. The Hon'ble Mr.P.Rangarajan, Member (A).

O R D E R

R.Rangarajan, Member (A).

Heard Mr.V.Ajaya Kumar for the applicants and Mr.C.Venkata Malla Reddy for the respondents.

2. There are five applicants in this O.A. They have filed this O.A. praying for a declaration that the action of the respondents

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in unilaterally changing the service conditions of the applicants by issuing the circular RBE No.222/98 dated 28.9.1998, enclosed as annexure A/1 to the O.A. is illegal, arbitrary, violative of the principles of natural justice and fair play and also violative of Articles 14, 16 and 21 of the Constitution of India and for a consequential direction to the respondents to promote the applicants to the upgraded scale of Rs.3050-4590/- as per their seniority in the lower grade of Khalasi Helpers.

3. The Railway Board has issued the impugned circular no.222/98 dated 28.9.1998 for filling up the upgraded post of Artisan in the scale of Rs.3050-4590/-, as per the revised methodology indicated in para 5 of the said letter. The same is challenged in this O.A. The same circular was challenged by the Technical Employees' Association of Railways (TEAR), Northern Railway in writ petition No.289/99 in the Apex Court. The Apex Court for the following reason, rejected the challenge to the said circular :

"Prescribing higher qualification for the purpose of promotion whether permissible under law no longer remains res integra. As early as in the case of the Union of India & Ors. vs. Dr. (Mrs.) S.B. Kohli & Anr. (1973 (3) SCC 592) in a matter relating to the Central Health Service Rules, this Court has held that it would be open for the employer to prescribe qualifications both for direct recruitment as well as for promotion. To the same effect, the judgment of this Court in Mohammad Shujat Ali & Ors. vs. Union of India & Ors. (1975 (3) SCC 76) and the decision of this Court in Tamil Nadu Water Supply case reported in 1991 (6) SCC 282. For maintaining efficiency in service, the higher qualification is required for discharge of the duties in the higher positions and, therefore, prescribing such qualifications cannot be held to be arbitrary or irrational. In the case in hand, the Board has issued circular in consonance with the recommendation of the Pay Commission. In that view of the matter, we see no infirmity with the impugned circular so as to be interfered with by this Court. The writ petition is accordingly dismissed."

4. In view of the above, the present challenge to the circular is not maintainable and hence the O.A. is dismissed.

5. The 1d.counsel for the applicants submits that against the 20% quota mentioned in para 5 of the circular, promotion of staff in the lower cadre as per the prescribed procedure is also not followed. Specific case of employees who were affected by

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non-following of the method, has to be challenged by the affected employees. Mere saying that it is not followed, is no reason to pass an order in this case.

6. The employees concerned, if so advised, may ~~take up~~^{institute} proceedings in accordance with law with full details ~~against them~~ if the posts in question are not being filled up in accordance with the Railway Board circular no.222/98 dated 28.9.1998.

7. No order is made as to costs.

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(R.Rangarajan)
Member (A)

D.N.
(D.H.Nasir)
Vice-Chairman

DATED THE 12TH JUNE, 2000
DICTATED IN OPEN COURT

R.S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH, HYDERABAD

~~1ST AND 2ND COURT~~

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO:

1. HON. JUSTICE D.H. NASSIR
2. HON. MEMBER (ADMIN)
3. HON. MEMBER (JUDICIAL)
4. D.R. (ADMIN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMIN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR
MEMBER (JUDICIAL)

DATE OF DATE: 12/6/2008

RA/PA/2008/100

CA. NO. 949/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.P. CLOSED

DISPOSED OF WITH DIRECTIONS • 22 JAN 2008

DISMISSED

DISMISSED AS WITHDRAWN

ORDER ARRESTED

