

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.

861/99

Date of Order : 7.6.99

BETWEEN :

- |                           |                           |
|---------------------------|---------------------------|
| 1. P.Lakshmana Rao        | 9. M.Ramana               |
| 2. M.D.Prasada Rao        | 10. Basala Ramana         |
| 3. M.Ramu Naidu           | 11. Byrisetty Krishna     |
| 4. Durba Subba Rao        | 12. B.Satyanarayanamurthy |
| 5. D.V.Satyanarayana Raju | 13. Beesetty Prasad       |
| 6. Gedela V.Satyanarayana | 14. P.Appa Rao            |
| 7. N.Srinivas             | 15. L.Yerra               |
| 8. G.Rama Rao             | .. Applicants.            |

AND

- |  |                 |
|--|-----------------|
| 1. Union of India, rep. by its<br>General Manager, S.E.Railway,<br>Calcutta. |                 |
| 2. Divisional Railway Manager,<br>S.E.Railway, Visakhapatnam.                | .. Respondents. |

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Counsel for the Applicants	.. Mr.P.B.Vijaya Kumar
Counsel for the Respondents	.. Mr.N.R.Devraj

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COPAM :

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

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

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O R D E R

X As per Hon'ble Shri R.Rangarajan, Member, (Admn.) X

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Mr.P.B.Vijaya Kumar, learned counsel for the  
applicants and Mr.N.R.Devraj, learned standing counsel  
for the respondents.

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2. There are 15 applicants in this OA. A notification was issued bearing No.WPT/5/G.Man/GD/OMR/98, dated 9.5.98 calling for applications for recruitment of Gangman in the scale of pay of Rs.2610-3540 (RSRP) in Group-D (Fresh Faces) in the Civil Engineering Department of Waltair Division S.E.Railway from open market. Though initially it was said that those nominated by the Employment Exchange <sup>would</sup> ~~will~~ be considered it is stated <sup>that</sup> subsequently a notification was issued in the paper calling for applications from all concerned. As per the notification dated 9.5.98, 382 posts have to be filled up <sup>under</sup> ~~by~~ various Assistant Engineers. It is stated <sup>that</sup> all the applicants herein had appeared for Physical Test as well as Written Test. However, they have been ordered to come for re-physical test by letter No.WPT/5/G.MAN/ GROUP'D'/OMR/98, dated 13.5.99 (A-2) as some doubt had arisen regarding the physical test conducted for the batch for which they had appeared. The re-physical test was to be held on 20.5.99 at Sersa Railway Ground, Visakhapatnam. But the applicants did not attend ~~ed~~ and submitted a representation, ~~A~~fter the test was over and also requested for keeping that test in pending as they were intended to approach this Tribunal as stated by the applicants. However, the applicants case was rejected.

3. This OA is filed praying for a declaration that the action of the respondents in ordering re-physical test vide

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their letter dated 13.5.99 is illegal, arbitrary, without jurisdiction and consequently by declaring the physical test conducted earlier on 10.3.99 as valid direct the respondents to cause issue of call letters to the applicants for viva-voce test for submitting their options for the posts.

4. The physical endurance test conducted on 10.3.99 was ~~to be~~ faulty as reported by the respondents counsel. If the applicants are of the opinion that they should not be tested for physical test once again we see no reason for such a submission. If they are really fit they should be no hesitation for them to appear ~~once~~ again. The re-physical test will prove their ability to perform their duty. However, there may be a case for the applicants that those who conducted <sup>the</sup> test earlier may not make them fully qualified in view of <sup>the fact that</sup> they have approached this Tribunal <sup>by filing this OA.</sup> The applicants should be given a week's time notice before conducting the re-physical test. Till such time the test is over 15 posts of Gangman should be kept vacant.

5. In view of the above the following direction is given:-  
The re-physical test <sup>has</sup> to be conducted ~~by~~ a team consisting 2 doctors who are not associated with the physical endurance test <sup>held</sup> earlier. A notice of at least 7 days should be given to the applicants before calling them to the

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re-physical test in pursuance of the above direction. If the applicants passed ~~in~~ the re-physical test in pursuance of the above direction their cases for appointment of Gangman should be considered in accordance with the law provided they fulfill all <sup>other</sup> ~~the~~ conditions. Till such time the physical endurance test of the applicants ~~to~~ once again <sup>is not</sup>; ~~tested~~ 15 posts of Gangman out of 382 mentioned in the notification should be kept vacant.

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

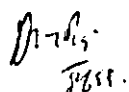
No costs.

  
( B.S. JAI PARAMESHWAR )  
Member (Judl.)  
7.6.99

  
( R. RANGARAJAN )  
Member (Admn.)

Dated : 7th June, 1999

( Dictated in Open Court )

  
J.P.S.

sd

COPY TO:-

1. HDHNS

2. HHRP M(A)

3. HBSJP M(J)

4. D.R.(A)

5. SPARE

*- cc to day*  
*A*  
1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

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

THE HON'BLE MR. H. RAJENDRA PRASAD :  
MEMBER (A)

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESWAR :  
MEMBER (J)

ORDER:

*7/6/99*

ORDER / JUDGEMENT

MA./RA./CP NO.

CA. No.

*in*  
*861/99*

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO

SRR

*6 copies*  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
प्रेषण / DESPATCH

14 JUN 1999

हैदराबाद न्यायपीठ  
HYDERABAD BENCH