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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1069/99.

Dt. of Decision : 21-07-99.

Ch. V.Brahman

.. Applicant.

Vs

1. The Union of India,
Rep. by the Chairman,
Railway Board, New Delhi.
2. The General Manager,
SE Railway, Calcutta.
3. The Divl.Rly.Manager (P),
SE Railway, Waltair Division,
O/o the Divisional Railway
Manager (P), Visakhapatnam.

.. Respondents.

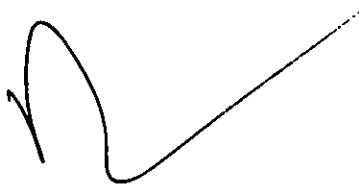
Counsel for the applicant : Mr.T.Nageswara Rao

Counsel for the respondents : Mr.N.R.Devaraj, Sc. for Rlys.

CORAM:-

THE HON'BLE SHRI JUSTICE D.H.NASIR : VICE CHAIRMAN

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

 .. 2/-

ORAL ORDER (PER HON'B.E SHRI R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.T.Nageshwar Rao, learned counsel for the applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

2. The applicant in this OA submits that he applied for the post of Gangman under AEN Koraput. But he states that his application was not considered or destroyed as he has seen some unruly elements tempering with his application at Koraput. Hence, he ~~want~~ to Kirandul. and applied for the same ^{post} under AEN Kirandul. In response to his application he was asked to come for physical test at Koraput. Hence he submits that he has not applied for Gangman under 2 AEN units and he has applied in only one AEN unit. Hence non-consideration of his case for that post on the premises that he applied for the Gangman posts in two AEN unit is incorrect. As he had already appeared for the physical test at Koraput and also passed the examination he should have been appointed as Gangman under the AEN Koraput on the basis of the select list.

3. As that was not done he has filed this OA for the two reliefs:-

(1) For a declaration that the action of the respondents in rejecting the candidature of the applicant by the office of R-3 for recruitment for the post of Gangman is illegal, arbitrary as there is no duplicate appearance for physical test or different roll numbers and for a consequential direction to appoint him as Gangman.

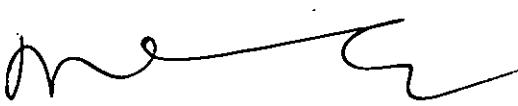
(2) For striking down the condition No.16 in page No.3 of the Recruitment Rule at Annexure-2 as the said condition violates the fundamental rights gauranteed under Constitution of India as it restricts freedom of movement and freedom of choice of place of work.

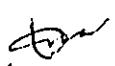
4. The applicant submits that he is not pressing for the second relief. Hence only the first relief is to be considered.

5. The learned counsel for the respondents submits that the applicant applied for two units viz., under AEN Koraput and AEN Kizandul. He has got the call letters for both the units. The applicant appeared at Koraput for the physical test for appointment as Gangman under AEN Koraput. Subsequently, he has produced other call letter by which he has to appear for physical test for posting as Gangman under AEN Kirandul. In that context that the respondents had held that he had applied for two units and that is against his submission that he had applied for only one unit.

6. The whole issue reveals on a proper consideration and checking of whole records and ascertain whether any incorrect submission was made by the applicant before the authorities. In that connection we are of the opinion that the applicant should submit a detailed representation in this connection explaining his case and ask for the relief of considering him for posting as Gangman in the Koraput for which he underwent physical test. That representation should be submitted by him within a period of 10 days from the date of receipt of a copy of this judgement. If such a representation is received the same should be disposed of in accordance with law by the appropriate authorities. Till such time the representation is disposed of one post of Gangman under AEN Koraput should be kept vacant.

7. The OA is ordered accordingly at the admission stage itself. No costs.


(B.S.JAI PARAMESHWAR)
MEMBER (ADMN.)


(D.H. NASIR)
VICE CHAIRMAN

Dated : The 21st July, 1999.
(Dictated in the Open Court)-

Checkatory

1st AND 2nd COURT.

COPY TO:-

1. H.O.H.N.J

2. H.H.R.P.M.(A)

3. H.B.S.D.R.M.(J)

4. D.R. (A)

5. SPARE

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

30/7/99.

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 (ADMIN)

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

THE HON'BLE MR. D.S. JAI PARAMESHWAR
MEMBER (JUDL)

ORDER: Date. 21.7.99

ORDER / JUDGMENT

MA./RA./CP.NO

IN
DA.NO. 1069/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED

R.A. CLOSED.

D.A. CLOSED

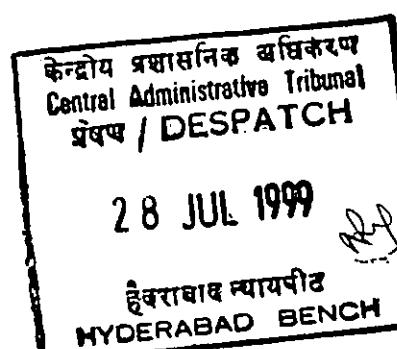
DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.



Re

2/CS