

51

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

No.O.A.1077 of 1999.

DATE OF ORDER : 9.8.2000

BETWEEN :

LEO MARIAN S/o Late Anthony Marian,
Aged about 48 years,
Head Mechanic in G.S.I.,
Bandlaguda, Hyderabad-500 068.

... Applicant

A N D

The Senior Deputy Director General,
Southern Region, Geological Survey of India,
Bandlaguda Complex, Bandlaguda,
Hyderabad-500 068.

... Respondents

Counsel for the applicant : Mr.T.P.Acharya.

Counsel for the respondents: Mr.B.Narasimha Sharma.

C O R A M :

1. The Hon'ble Mr.R.Rangarajan, Member (A).
2. The Hon'ble Mr.B.S.Jai Parameshwar, Member (J).

O R D E R

R.Rangarajan, Member (A).

None for the applicant. Mr.M.C.Jacob for Mr.B.Narasimha Sharma, for the respondents.

2. The O.A. is disposed of under Rule 15(1) of the CAT (Procedure) Rules, 1987.
3. There are nine posts of Foreman (Jr.) in the department. Their feeder category is Head Mechanic. The applicant is a Head Mechanic and his next promotion is to the post of Foreman (Jr.).
4. In the year 1998, 4 vacancies of Foreman (Jr.) arose. One of the vacancies was advertised for direct recruitment vide advertisement no.9/99, annexed as annexure 'A/6' to the O.A.

2

✓

..2/-

The applicant submits that the number of direct recruits are 2 in the post of Foreman (Jr.) and hence 20% quota has been fulfilled. Hence one of the vacancies advertised for being filled up by direct recruitment is irregular.

5. The applicant submitted a representation, but there is no material available on record to show that the representation has been disposed of.

6. This O.A. is filed for a declaration that the action of the respondent in filling up of one post of Foreman (Jr.) by direct recruitment is violation of the principles laid down in GOI O.M. No.36012/2/96-Estt (Res) dated 2.7.1997 (annexure 'A/8' page 24 of the O.A.), is arbitrary, illegal and also violative of the O.M. dated 2.7.1997 bearing no.36012/2/96-Estt (Res), and for a consequential direction to set aside the advertisement no.9/99 issued in the employment news of 6-12 March, 1999, in so far concerning to Foreman (Jr.) and direct the respondent to promote the applicant to the post of Foreman (Jr.) from May, 1998, with all consequential benefits.

7. The applicant herein, as stated earlier, is a Head Mechanic and his next promotion is to the post of Foreman (Jr.). The applicant relies on O.M. No.36012/2/96-Estt (Res) dated 2.7.1997, at page 24 of the O.A., to state that the post should not be filled up by direct recruitment.

8. The said O.M. is in regard to post-based rosters instead of vacancy-based rosters, connected with the instructions in regard to reservation for reserved community candidates. That O.M. has no relevance to the present O.A. and the relevant recruitment rule ^{so} ~~far~~ as filling up the post of Foreman (Jr.) is concerned ^{in the rule}. Hence, the applicant's contention that it is violative of the principles laid down in the O.M. dated 2.7.1997 has no meaning.

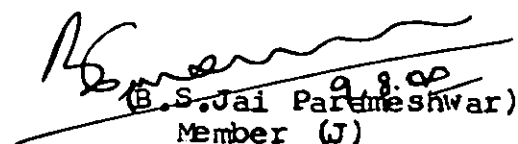
9. The only point for consideration is whether the recruitment rule has been followed for filling up the post of Foreman (Jr.). The respondents have enclosed the recruitment rule for the post of Foreman (Jr.) in the G.S.I. as annexure 'R-II' to the reply. The post of Foreman (Jr.), as per serial 11 of the recruitment rule

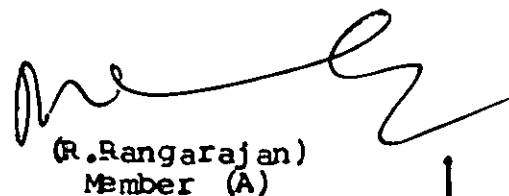
which lays down that "method of recruitment whether by direct recruitment or by promotion or deputation/transfer and percentage of vacancies to be filled by various method", is to be filled up 80% by promotion, failing which by direct recruitment and 20% by direct recruitment. The recruitment rule is meant for filling up vacancies and it has no relevance to the availability of direct recruits in the cadre. Hence, the contention of the applicant that there are 2 direct recruits already available which fulfils the recruitment rule is not ^asustainable contention. Hence, that contention has to be rejected.

10. In the year 1998, 4 posts of Foreman (Jr.) had become vacant. These 4 posts had to be filled up 80% by promotion and 20% by direct recruitment. If so, one of the vacancies should necessarily be allotted for direct recruit. Hence, the respondent has correctly issued the advertisement no.9/99 for filling up the post by a direct recruit. We find no irregularity to fill up one post of ~~Mechanic~~ ^{Foreman} (Jr.) by direct recruitment. The recruitment rule deals with filling up of vacancies with no relevance to the availability of direct recruits ^{in the cadre}. This is also in accordance with the Supreme Court judgment reported in (1999) 3 SCC 384 (All India Federation of Central Excise vs. UOI & Ors.).

11. We also find from the seniority list of Head Mechanic, enclosed as annexure 'R/1' to the reply, that the name of the applicant is appearing at serial no.6. None of his juniors whose names are appearing in that list, have been promoted as Foreman (Jr.).

12. In view of the above position, we find no merit in this O.A. This O.A. as such is dismissed. No order is passed as to costs.


(B.S. Jai Parmeshwar)
Member (J)


(R. Rangarajan)
Member (A)

DATED THE 9TH AUGUST, 2000
DICTATED IN OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:-

~~1ST AND 2ND COURT~~

1. HDHND
2. HRRN (ADMN) MEMBER
3. HBSJP (JUDL) MEMBER
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR
VICE - CHAIRMAN

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

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

DATE OF ORDER 9/8/2000

~~MA/RA/CP.NO~~

IN

OA.NO. 1077/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

