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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

ORIGINAL APPLICATION NO. 1131 OF 1999

DATE OF ORDER : 3.11.2000

Between:

P.V. Suryanarayana

...APPLICANT

AND

1. Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The Director,
Indian Railways Institute,
of Signal Engineering and Telecommunications,
Lallaguda Post, Secunderabad.
3. Sri K. Srinivas ,
working as Senior Draftsman,
Drawing Office, Indian Institute of Signal
Engineering and Telecommunications (IRISET),
Secunderabad.

...RESPONDENTS

COUNSEL FOR THE APPLICANT : Shri S. Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS : Shri J.R. Gopala Rao, SC

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

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

(Order per Hon'ble Shri R. Rangarajan, Member (A)).

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(Order per Hon'ble Shri R. Rangarajan, Member (A)).

Heard Mr S. Ramakrishna Rao learned counsel for the applicant and Mr J.R. Gopal Rao learned standing counsel for the respondents.

2. The short facts of this case are as under:-

There was a shortfall for the SC vacancy in the post of Chief Design Assistant in the grade of Rs. 6500-10500 in the respondents organisation. As they were not able to fill up the post by the reserved community candidate, they downgraded the post of Chief Design Assistant to Head Draftsman and tried to fill up the post by an SC community candidate. After the SC community candidate fulfills the relevant qualification for promotion to the post of Chief Design Assistant, he will be promoted as Chief Design Assistant thereby fulfilling the reservation rosters in the cadre of Chief Design assistant.

3. The applicant submits that the post of Head Draftsman is a single post and hence, reservation is not permitted. Subsequently the post of Chief Design Assistant in the higher grade was downgraded to Head Draftsman which means that the post has come to the cadre of Head Draftsman and the post of Head Draftsman should be filled in accordance with the Recruitment Rules by calling the eligible candidates in the feeder category. Without following that rule, calling SC candidate for filling up the post with the idea of promoting him later to Chief Design Assistant, is irregular.

4. The applicant has filed this OA to consider his case for promotion to the cadre of Head Draftsman which is a general vacancy, he being senior in the cadre of Senior Draftsman by declaring that the inaction on the part of the respondents in not considering his case for the said promotion as arbitrary, illegal and unwarranted and in violation of articles 14 and 16 of the Constitution of India.

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5. A reply has been filed in this OA. The main point for consideration in this OA is whether the post of Chief Design Assistant can be downgraded as Head Draftsman and fill^{ed} up that post by an SC candidate so as to enable the SC candidate to be promoted against the reserved quota in the cadre of Chief Design Assistant as and when the said SC candidate fulfills necessary conditions for promotion as Chief Design Assistant thereby fulfilling the reservation roster in the higher grade of Chief Design Assistant.

6. The Head Draftsman is not the feeder cadre for the Chief Design Assistant. Hence, filling up that post from the post of Head draftsman may not be in order as it will violate the recruitment rules. But we do not want to further consider this issue as^{to} the question of filling up the shortfall vacancy of SC/ST when an employee was not available in the same grade can be done by downgrading this post and reserving the vacancy in the higher grade at a later date. The above question was posed to the respondent's organisation to check up the issue from the nodal Ministry, namely, the Department of Personnel and Training which frames the reservation rules. The respondents have produced letter addressed to the General Manager(P) from the Executive Director Estt(Res) of the Railway Board. The above question is answered as follows:-

With reference to the queries raised in your above quoted letter, it is stated that Board had issued letter dated 29.6.99 keeping in view the fact as to how to fill the shortfall vacancies of SC/STs, when an employee was not available in the same grade. It is not necessary that on each and every issue DOP&T has to be consulted. The above measure is a temporary measure to find suitable SC/ST candidate to man the reserved post so that in future also shortage of SC/ST candidate may not be there.

From the above, it appears that the Railway Board authorities had taken over the responsibility of laying down the reservation rules. The above question posed by us is very relevant and it is not a minor issue. When such a major issue is to be decided, the Railway has got no right to decide the issue as it is not the nodal Ministry for deciding the reservation rules. It is only the nodal Ministry namely; the DOP&T who decides such

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an important reservation issue. Hence, the reply given by the Railways , as extracted above, cannot be treated as a valid reply. Hence, the reply is ignored.

7. The second important question is that the post of Head Draftsman being only one , whether reservation rule applies or not? The above question , when posed to the respondents, the Railway Board has answered as follows:-

As regards the question of reservation in a single post, since it is a vital policy matter, the same is under correspondence with the nodal Ministry i.e. DOP&T. Accordingly, Hon'ble CAT, Hyderabad may be requested to adjourn the matter till such time a clarification is obtained. In the meantime, a copy of the OA and counter affidavit filed by the Railway may be furnished immediately to enable to appreciate the position.

It is not necessary for us to adjourn this case but it is for the Railways to consider the issue. There is already an Apex court judgement reported in AIR-1998 SC 1767 in Review Petition ©No. 1749 of 97 in Civil Appeal No. 3175/97 etc. dt. of judgement 17.4.1998(PG Institute of Medical Education and Research Vs Faculty Association) wherein it is held that a single cadre post cannot be reserved . Hence, the ~~above~~ question of adjourning this case to decide the issue by the Railway Board does not arise . The reply is very unsatisfactory and has to be ignored.

8. In view of what is stated above, the post of Chief Design Assistant if downgraded as Head Draftsman, the same should be filled up in accordance with the Recruitment Rules for the Head Draftsman and not as contemplated by the respondents herein.

9. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)

MEMBER(DOP)
3.11.2000


(R. RANGARAJAN)
MEMBER(A)

DATED 3rd NOVEMBER, 2000
DICTATED IN OPEN COURT


8/11/00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD.

COPY TO

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

1ST AND 11ND COURT

TYPED BY CHECKED BY
COMPARED BY APPROVED BY

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

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

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

DATE OF ORDER

3/11/00

MR./RA/CP.No.

IN
OA.No.

1131/98

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

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