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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.12/99

dt.1-3-2000

Between

S. Krishna Murthy : Applicant

and

1. Dy. CSTE (Shops)  
Signal & Telecommunications  
Workshop/MFT, Mettugada  
Secunderabad

2. Chief Personnel Officer  
SC Rly., Rail Nilayam  
Secunderabad

3. BVSS Prasad  
4. M. Bharat Kumar  
5. Kum. Vijayalaxmi

(3-5 working as Sr.Charge-  
man (JE-I), o/o Dy. CSTE (SHOPS)  
Signal & Telecommunications  
Workshop/MFT, Mettugada  
Secunderabad

; Respondents

Counsel for the applicant : P. Vindd Kumar  
Advocate

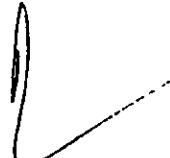
Counsel for the respondents : V. Bhimanna  
SC for Railways

Coram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)





## Order

Oral order (per Hon. Mr. R. Rangarajan, Member(Admn.)

None for the applicant. Mr. V. Bhimanna learned counsel for the respondents present and heard.

1. Even on earlier occasion the learned counsel for the applicant nor the applicant was present. Notices have been served on respondents No.3 and 4 called absent. Notice <sup>sent to</sup> served ~~the~~ respondent No.5 returned unserved. As out of three private respondents 2 have been served. There is no need to further adjourn to serve on respondent No.5. As the applicant or his counsel is not present the OA is disposed of under Rule 15(1) of CAT procedure Rules, 1987.

2. A Notification bearing No.71669/Est./X dated 5-5-1997 (Annex.I, p.8) was issued to hold selection ~~of~~ <sup>for</sup> two posts of Section Engineers in the Scale of Rs.2000-3200. The number of posts ~~has~~ to be filled as per the notification is indicated as one UR and one ST against the Departmental quota in the S&T Workshop, Mettugua. Written tests were held on 30-5-97 and 31-5-1997. The applicant who is an SC candidate had qualified in the tests. The applicant submits that even though he qualified in the tests and the private respondents were not qualified in the tests they were also called for viva-voce.

3. When the matter stood thus the respondent No.3 made representation for revising the seniority list comparing himself to that of the applicant herein, that the applicant was promoted to the post of Senior Chargeman (Junior Engineer Gr.I) against reservation quota. Respondent No.3 further represented that the revision of seniority of the applicant

vis-a-vis Respondent No.3 is necessary for promotion to the higher post of Section Engineer in view of the judgement in the case of Virpal Singh Chauhan.

4. Initially a provisional seniority list was issued on 9-8-97 showing the applicant at Sl.No.6 in the cadre of Junior Engineer Gr.I and the three private respondents were shown at Sl.No.s, 7,8 and 9 respectively. In view of the representation of respondent No.3 as stated above the provisional seniority list of 9-8-97 was revised by the order (enclosed as Annex.R-1) showing the applicant at Sl.No.9 and respondents 3,4 and 5 at Sl.Nos.6,7, and 8 respectively.

5. The applicant submits that the revisional seniority list is irregular. That the seniority list issued ~~under~~ by respondent No.1 is only a provisional seniority list and that was not finalised yet.

6. This OA is filed to set aside the Circular No.61/97 dated 25-3-97 issued by the Respondent No.2 and consequently direct the respondents to restore the seniority of the applicant by showing him again at Sl.No.6 in the seniority list of Chargeman 'A' (JE Grade I).

7. An interim order was passed in this OA on 5-1-99. The interim order dated 5-1-99 reads as follows:

"Heard. Admit. Issue notice.

In the meantime the respondents shall be at liberty to proceed with the selection process; however, with a condition that the selection shall be subject to the result of this OA and that the candidate who is selected shall be clearly told that his promotion is subject to the result of the present OA.

Status-quo is directed to continue till the final disposal of the OA. Having regard to the fact that this interim direction may have far reaching consequences, it is necessary that the OA should be heard and decided expeditiously. Hence, immediately after four weeks on the filing of reply affidavit by the respondents the matter is directed to be posted for final hearing."

8. A reply has been filed in this OA. In the reply the respondents contend that the applicant, and the respondent 3 & 4

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were kept as Stand-by for selection to the post of Section Engineer (Shops). By notification issued on 19-4-97 the applicant was called for written test as one of the alternative candidate to ~~a person who is to be had~~ <sup>anywhere in the main list</sup> retired from service. The written test was held on 31-5-97 as part of the selection to the post of Section Engineer. Four candidates including the applicant have appeared for the written test. Out of four only the applicant qualified in the viva-voce which was fixed on 29-7-97. The respondents submit that in view of the representation received from the respondent No.3 to revise the seniority list as he contended that he is senior to the applicant herein as per Serial Circular No.61/97 which was issued consequent to the judgement of the Hon. Supreme Court in the case of Virpal Singh Chauhan, the viva-voce test was kept in abeyance. After examining the representation of respondent No.3 and the findings emerged in the representation the seniority list of the post of feeder category which is enclosed as Annex.R-1 was revised. As a result of the revision the applicant had gone down by three places and consequently he did not find place in zone of consideration of the said selection. The Respondent No.3 was senior in the grade of Junior Engineer in the scale of Rs.1400-2300 and as the applicant has got accelerated promotion to the non-selection post of Junior Engineer in the scale of Rs.1600-2660 by application of rule of reservation the revised seniority list was issued.

9. They further submit that the assessment of ~~vacancies~~ <sup>reservation</sup> was made on the post based roster. Hence promotion to the post of Section Engineer (Shops) in Scale of Rs.2000-10500

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has been totally cancelled with the approval of the competent authority namely Respondent No.2 herein and the cancellation proceedings was communicated to all vide letter No.P(SG)/608/Dy.SS/MFT/96 dated 5.1.98 (Annex.R-2). The respondents submit that the applicant relying on the reported case in AIR 1997 (SC) 2366 claims that his seniority cannot be changed. But that reported case has been invalidated by Virpal Singh Chauhan case. Hence, the issue of the revised seniority list as per Virpal Singh Chauhan case is in order.

10. In view of what is stated above the respondents submit that the OA has to be dismissed.

11. It is a fact that after 10-2-95 any further promotions made ~~for~~ the seniority list of employees in the feeder cadre who were promoted in the cadre of 10-2-95 against reservation has to be revised and those promoted in the reserve quota has come down in the seniority to a senior in the lower grade. It appears that the provisional seniority list issued under respondent No.1 is in accordance with the above judgement. However, we find that the said seniority list issued under Respondent No.1 is only ~~a~~ provisional and not revised seniority list of JE Grade I.

12. We posed a question to the learned counsel for the respondents whether the provisional revised seniority list has been made final. He submitted that it is not so. Hence, it is not necessary for us to pass any orders in regard to seniority at present. The applicants in the revised seniority should be informed to submit their representation <sup>once again</sup> if any and on that basis revised seniority list should be issued. Further action on the basis of revised seniority list should be taken by the Administration in accordance with law.

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13. No doubt those who are in the revised final list may challenge the same in accordance with law.

14. In the result the OA is disposed of. No costs.

~~(B.S. Jai Parameshwar)~~  
~~Member (Admn)~~

~~Ranga~~  
(R.Rangrajan)  
Member (Admn)

Dated : March 1, 2000  
Dictated in the Open Court

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