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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.228/99

DATE OF ORDER : 23-12-1999.

Between :-

D.Seshappa

...Applicant

And

1. Divisional Railway Manager,
SC Rlys, Guntakal, Anantapur
District.
2. Selection Committee rep. by its
Chairman-cum-Senior Divisional
Engineer (Coordination),
S.C.Rlys, Guntakal, Anantapur Dt.
3. Senior Divisional Personnel Officer,
S.C.Rlys, Guntakal, Anantapur District.

...Respondents

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Counsel for the Applicant : Shri K.R.Prabhakar

Counsel for the Respondents : Shri V.Bhimanna, Addl.CGSC

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CORAM:

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

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

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

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... 2.



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

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Heard Sri V.Bhiamanna, learned Standing Counsel for the Respondents. None for the applicant.

2. applicant
The/appeared for the post of Office Superintendent Gr.II in the scale of Rs.1600-2660 in Civil Engineering Department, Guntakal Division in response to the notification dated 2.11.1995 (Annexure-II page-17 to the OA). He was not selected. He complains that his juniors were promoted. Hence he has filed this O.A. praying for a declaration that the proceedings dated 10.8.1998 (Annexure-VIII page-31 to the OA) wherein the name of the applicant is not finding place in the selected panel selecting candidates who were admittedly juniors to the applicant and consequently proceedings dated 21.8.1998 (Annexure-IX page-32 to the OA) whereby the selected candidates were posted as OS Gr.II while refusing to promote and appoint the applicant eventhough he ~~was~~ is fully eligible and qualified to hold the post as arbitrary and against Principles of natural justice and violative of fundamental rules under Articles 14, 16 and 21 of the constitution of India and consequently^{to}/direct the respondents to promote the applicant to the post of OS Grade II.

3. A reply has been filed in this OA. It is stated in the reply that the post of OS Gr.II is a promotional ~~post~~ post and it is a selection post. They denied the contention of the applicant that the said post is a non-selection post to be promoted based on the seniority cum suitability of the incumbent. The Respon-

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dents further submit that the ^{contention is that} applicant ^{is not correct} the said post is a non selection post to be promoted based on the seniority cum suitability of the incumbent. The Respondents further submit that the applicant passed the written examination by securing 60% of marks and failed to secure 60% in professional ability consisting of written cum viva-voce. The applicant is ineligible for empanelment even though he could secure more than 60% in aggregate in the selection for the post of Office Superintendent Gr.II/Engineering Branch, Guntakal. But it is essential that the applicant should get 60% marks in written and 60% in viva-voce and then only he he can be termed as qualified in the test. As the applicant failed to get that percentage in viva-voce, he is ineligible to be empanelled. The Respondents have enclosed Annexure-I to the counter and relied on para-9.2 of that circular to state so. The applicant is an OC candidate and hence 60% of marks as above is insisted upon. No rejoinder has been filed. The respondents relied on the proper circular and rejected the case of the applicant for empanelment. Hence we find no irregularity in not empaneling the applicant for promoting ~~the~~ ^{him} applicant to the post of OS Gr.II and empaneling his juniors who became eligible. In the result, the Original Application is liable to be dismissed and accordingly it is dismissed. No order as to costs.



(R. RANGARAJAN)
Member (A)



(D.H. NASIR)
Vice-Chairman

Dated: 23rd December, 1999.
Dictated in Open Court.

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3-1-2000