

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 210 /99

DATE OF ORDER : 7.3.2000

Between :-

B.Ramachander

...Applicant

And

1. Union of India, rep. by its General Manager,
SC Rlys, Sec'bad.
2. The Chief Personnel Officer, Personnel Branch,
SC Rlys, Sec'bad-500 071.
3. B.Prasada Rao

...Respondents

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Counsel for the Applicant : Shri N.Ram Mohan Rao

Counsel for the Respondents : Shri J.R.Gopal Rao, Addl.CGSC

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CORAM:

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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... 2.



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

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Heard Sri Siva for Sri N.Ram Mohan Rao, learned counsel for the applicant and Mrs.Shakti for Sri J.R.Gopal Rao, learned Standing Counsel for the Respondents.

2. A notification for formation of panel by selection for promotion to the post of Chief Inquiry & Reservation Supervisor in the scale ^{of pay} of Rs.2000-3200/Rs.6500-10500 in Commercial Department was issued by notification No.P/C/605/CE&RS/Vol.III dated 7-4-1998 (Annexure-8 page-15 to the OA). By that notification it was proposed to fill 6 posts of Chief Inquiry & Reservation Supervisor comprising of one SC and 5 unreserved. Initially it was stated that for the main examination Respondent No.3 did not appear. He gave his unwillingness. However, the applicant appeared for the same in the main examination itself. However, a supplementary examination was conducted on 28-8-1998 wherein Respondent NO.3 appeared for the selection. The results of the written examination were published by letter No.P(C)605/CE&RS/Vol.II dated 7.9.1998 (Annexure-4 page-11 to the OA). The respondent No.3 passed examination and his name is finding the place in the letter dated 7.9.1998 whereas the name of the applicant is not finding a place. Both the applicant and one Sri R.V.Ramaswamy submitted representation dated 11.9.1998 (Annexure-3 page-10 to the OA) requesting the respondents to scrutinise their papers before the viva-voce which was fixed to be held on 18-9-1998. It is stated that the above representation was not disposed-of.

3. The viva-voce was conducted and the panel was issued by memo No.P/C/605/CE & RS/Vol.III dated 23.9.1998 (Annexure-2 page-9 to the OA) where Respondent No.3 was shown as empanelled under the classification "Good". Respondent No.3 was also posted as Chief Examiner cum Reservation Supervisor in Hubli Division by impugned order No.C/585/CE&RS/Vol.II dated 9-12-1998 (Annexure-I page-8 to the OA).




4. This OA is filed for setting aside the impugned order dated 23.9.1998 and 9.12.1998 and for a consequential direction to the Respondents to re-consider the entire issue in so far it relates to promotion of Respondent No.3 herein and for a further declaration that the applicant is entitled for promotion as CE&RS.

5. The first contention of the applicant is that Respondent No.3 should not have been allowed to sit for supplementary examination held on 28-8-1998 as he gave his unwillingness for appearing for the main selection test. For this the applicant relies on para 316 of IREM (Vol.I) Revised Edition, 1989. Relying on that para the applicant submits that only for the reasons beyond the control should be taken note of for granting permission to sit in the supplementary examination and that has been clearly stated under the note in para-316 of IREM. The respondent No.3 does not fulfil any of the conditions laid down in the said note. Hence the Respondent No.3 should not have been permitted to sit for the supplementary examination held on 28-8-1998. Allowing Respondent No.3 to sit for Supplementary Examination is violative of note under para-316 of IREM (Vol.I) referred to above.

6. In this connection the letter No.P(C)605/CE&RS/Vol.III dated 30-7-1998 (Annexure-7 page-14 to the OA) is relevant to be noted. In this letter the reason for giving unwillingness to appear for the main examination and the reasons now for his willingness should be indicated and his willingness for sitting for supplementary examination has to be obtained. In the reply under Annexure R-III, the Respondent No.3 has given his willingness to sit for the examination for the reasons stated therein. It has been stated in the reply dated 31.5.1998 by Respondent No.3 that initially the written test was held on 9-5-1998. As his date of superannuation was on 31.7.1998 which was very nearby to the date of examination i.e. 9-5-1998, he was not willing to sit for the examination as even if he sat for the examination, the selection ^{could} ~~will~~ not be concluded before his superannuation and hence he gave his unwillingness. But subsequently the age of




superannuation was increased to 60 years and hence he clearly stated in that letter that he wished to sit for the examination in view of the changed circumstances.

7. The only point for consideration is whether the reason stated by Respondent No.3 in his letter dated 31.5.1998 can be treated as acceptable reason which can be ^{taken} note of in addition to the reasons stated in note to para-316 of IREM. ~~has to be considered.~~

8. There were number of cases where even after the voluntary retirement has been initially accepted it was rescinded subsequently was accepted because of increase ^{in the} of age of superannuation. In the present case the reason submitted by Respondent No.3 for reviewing his unwillingness due to the increased age of superannuation is to be treated as ^a valid reason to sit for the supplementary examination. Even though this was not a reason given in note ^{to} of para-316 of IREM, this should be treated as a valid reasoning. Hence it has to be held the reasons stated by Respondent No.3 in his letter dated 31.5.1998 is valid and because of that he was permitted to sit for the supplementary examination held on 28-8-1998. We do not see any irregularity in permitting Respondent No.3 in allowing to sit in Supplementary Examination held on 28-8-1998. Hence the first contention of the applicant is not sustainable.

9. The second contention of the applicant is that if a seniority mark is added, then the applicant being senior to the private respondent will also find place for calling him for viva-voce. In that view he submits the marks obtained by applicant and Respondent NO.3 should be seen. In this connection para-9 of the counter has to be seen. It is stated that the applicant did not come up even after adding notional seniority marks. We do not think that the above contention ^{can} ~~has to~~ be accepted only after seeing the marks. The Respondents are responsible enough to come to the conclusion on the basis of records available with them. We do not think that the submission is perfunctory.

10. From the third contention of the applicant in this OA as contained in sub para (iii) or (vi) of the OA, it appears that he is under illusory notion that his

marks were compared with that of OC candidates and that resulted in his failure in the examination. He submits that his marks should be compared with that of SC candidate and his fitness should be treated accordingly. This is a very vague contention. When the examiner corrects the papers, he gives marks on the basis of the material on the answer sheets but not on the basis of the category of the candidates. We do not think that any cognisance needs to be given in this contention.

11. In view of what is stated above, we do not find any merits in this OA. Hence the OA is dismissed. No order as to costs.


(B.S. JALPARAMESHWAR)

7.3.00
MEMBER (J)



(R. RANGARAJAN)

MEMBER (A)

Dated: 7th March, 2000.

Dictated in Open Court.

Avl

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO

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

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 7/3/00

MA/RA/CE. NO

IN

G.A. NO. 210/99

- 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

6 copies

केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
दिल्ली / DESPATCH
28 MAR 2000
HYDERABAD BENCH