

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

**Original Application No.374 of 2013,
M.A. /20/45/2017 & MA/20/563/2013**

Date of CAV: 05.09.2018

Date of Pronouncement: 07.09.2018

Between:

Kommathoti Vijay Prakash,
S/o. late K. Rayappa, aged 39 years,
C/o. Pilla Satyanarayana,
D. No. 3-316, Near Saibaba Temple,
Balajipet, Rajahmundry, E.G. Dist.

... Applicant

And

1. The Union of India,
Rep. by the Secretary (Estt.),
Railway Board, Ministry of Railways,
New Delhi.
2. The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
3. The Senior Divisional Personnel Officer,
South Central Railway, Vijayawada Division,
Vijayawada.

... Respondents

Counsel for the Applicant ... Mr.K.R.K.V. Prasad, Advocate
Counsel for the Respondents ... Mrs. KMJD Shyama Sundari,
SC for Railways

CORAM:

Hon'ble Mr. B.V. Sudhakar, Administrative Member
Hon'ble Mr. Swarup Kumar Mishra, Judicial Member

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Administrative Member }

The OA is filed being aggrieved by the action of the respondents in not including his name in the select list vide Memorandum dated 11.10.2012 for the post of Assistant Loco Pilot in spite of his qualifying in the written examination as per the results declared vide Memo. dated 17.02.2012.

2. Brief facts are the applicant applied for the post of Assistant Loco Pilot against the 50% lateral induction quota. The applicant being over aged for the said post represented for relaxation of age, but it was turned down by the respondents vide letter dated 18.01.2011. The applicant continued to represent vide letters dated 02.02.2011 and 22.03.2011. As applicant did not get any response from the respondents, he filed OA No. 224/2011 seeking a direction to the 3rd respondent to permit him to appear in the examination.

3. During the pendency of the OA, the 3rd respondent disposed of the representation dated 02.02.2011 rejecting his request for relaxation of age without the representation being put up to the 2nd respondent who is competent to take a decision in the matter. This Tribunal also disposed of the said OA by stating that the applicant did not place any material to show that the General Manager is competent to relax the age. Aggrieved by the same, the applicant moved the Hon'ble High court of Andhra Pradesh vide WP No. 16049/2011 and the Hon'ble High Court while admitting the writ petition, passed an interim order directing the respondents to dispose of representation of the applicant and not to announce the results of the examination. Accordingly, the respondents permitted the applicant to appear for the examination on 16.06.2011 and the applicant cleared the said exam as per the results declared vide memo dated 17.02.2012. Further, in view of the interim directions of the Hon'ble High court not to declare the results of the selection, the respondents filed a vacate stay petition before the Hon'ble High Court and the writ petition itself was finally decided dismissing the same. Then the applicant carried the matter to the Hon'ble Supreme Court vide SLP © No. 30600/202, where again, the applicant could not get any relief.

4. The applicant's contention is that his representations were not examined by the 2nd respondent, who is competent to relax the age despite the fact that he has passed the examination. Therefore, his grievance continues and hence, this OA. The applicant further contends that he has passed the examination and that if the competent authority were to examine his request for relaxation of age, then his future is made. However, his sole base in the OA is that the representations made by him have not been examined by the competent authority and therefore, he continues to be bereft of the benefit that would have accrued to him on passing the written examination. Relaxation of age has to be done on case to case basis considering the circumstances of factors involved. Powers have been delegated to the competent authorities to exercise the same in discharging their assigned functions. No doing so is difficult to accept.

5. The respondents claim that principles of res judicata apply to this case as his grievance has been duly addressed and settled by different judicial forums. Besides, the respondents have brought to the notice of this Tribunal that the representation of the applicant dated 20.03.2011 was pertaining to the notification issued in 2006 which was disposed of by the Senior Divisional Personnel Officer. Further in OA 224/2011, this Tribunal observed that even if the General Manager has power to relax the age, it would not be mandatory for him to grant relaxation to the applicant as the post is a safety category post connected with running of trains involving public safety. Therefore, the request of the applicant need not be considered.

6. Heard learned counsel for both sides, each struck to their stand firmly taken in the respective written submissions.

7. It is true that the candidate has passed the examination after making all the efforts he can. The plea of the applicant to relax the age was not favourably viewed at different judicial forums. Hence, coming again to this Tribunal seeking relief may not invite a positive outcome, reason being that the power though vested with the General Manager, it is for the said authority to grant the relaxation or otherwise through the wings of the organization which have a prescribed process methodology to dispose of representations of the nature discussed supra.

8. Hence, the OA has to necessarily fail and is accordingly dismissed. MAs allied to this OA also stand disposed.

9. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

Dated, the 7TH day of September, 2018

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