

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

Original Application No.1315/2012

Date of Order:17.12.2018

Between:

1. G. Dali Naidu, S/o. Simhachalam,
Aged 48 years, Keyman, SSE (P) VSKP,
D. No. 9-425, Ravinagar, Naiduthota, Visakhapatnam – 47.
2. A.R. Subramanyam, S/o. Suryanarayana,
Aged 47 years, Trackman, Sr. SE (P) VSKP,
D. No. 12-71, Harshavardhan Nagar,
Rampuram, Pendurthi PO, Visakhapatnam – 531173.
3. CH. Kondala Rao, S/o. Yerkayya,
Aged 48 years, Trackman, SSE-P-Way MYD,
East Coast Railway, Adduvaripalem, Kothavalasa,
Vijayanagaram.
4. Ch. Dhanunjaya Rao, S/o. Rama Rao,
Aged 40 years, Kalasi Helper, SSE (TM) WAT,
Q. No. Type II/35/C, Vadlapudi Railway Colony,
Gajuwaka, Visakhapatnam – 46.
5. T.R. Appala Naidu, S/o. Musalayya,
Aged about 42 years, Gatekeeper, SSE-P-CHE,
Q. No. E/15/2, Tilaru Railway Quarters,
Jalumuru, Srikakulam – 532 474.
6. B. Tata Rao, S/o. Thammayya,
Aged 42 years, Keyman, SSE (P) NWP,
Bangiripeta Village, VG Puram PO,
Nandigam Mandal, Srikakulam Dist. – 532202.
7. G.V.R. Murty, S/o. Appalarisimhulu, Aged 49 years,
Trackman, SSE/P GPI, D. No.D/1/2, Gajapathinagaram,
Railway Colony, Vizianagaam District.
8. M. Vigneswara Rao, S/o. Engili,
Aged 47 years, Trackman, SSE/P/VBL,
Q. No. D/4/2, Bobbili, Railway Colony, Vizianagaram Dist – 535558.
... Applicants

And

1. The Union of India, Rep. by its General Manager,
East Coast Railway, Chandrasekharpur, Bhubaneswar – 751023.

2. Chief Personnel Officer,
East Coast Railway, Chandrasekharpur, Bhubaneswar – 751023.
3. Divisional Railway Manager,
Waltair Division, East Coast Railway,
Dondaparthi, Visakhapatnam.
4. Additional Divisional Railway Manager,
East Coast Railway, Waltair Division, Visakhapatnam.
5. Divisional Railway Manager (P),
Waltair Division, East Coast Railway,
Dondaparthi, Visakhapatnam.
6. Divisional Railway Manager (Engg),
Waltair Division, East Coast Railway,
Dondaparthi, Visakhapatnam.
7. Sri Kalyana Mohanto,
Trackman, SSE (P) JDB,
Waltair Division, Jagadalpur, Orissa.
8. Sri V.V.S.S.A.K. Patnaik
Gate Keeper, SSE (P) WAT,
Waltair Division, Visakhapatnam.
9. Sri K. Narayana Rao,
Trackman, SSE (P) VZM, Vizianagaram.
10. Sri K. Vinod Kumar
Trackman, SSE (P) VZM, Vizianagaram.
11. Sri M. Satyanarayana
Storeman, Sr. DEN/WAT, Visakhapatnam.
12. Sri R. Rajeswara Rao Gate Keeper,
Trackman, SSE (P) NWP, Naupada, Orissa.
13. Sri G. Venkateswarulu
Keyman, SSE (P) SUP, Sambalpur, Orissa.
14. Sri V. Gouri Shankar
Trackman, SSE (P) KTV,
Kothavalasa, Srikakulam.
15. Sri M. Appala Surya Rao
Trackman, SSE (P) CHE,
Cheepurupalli, Srikakulam.
16. Sri T. Srinivasa Rao
Keyman, SSE (P) GPI,
Waltair Division, Visakhapatnam.

17. Sri Y. Murali Krishna
Gate Keeper, SSE (P) MYD,
Waltair Division, Visakhapatnam.
18. Sri R. Appalaraju,
Trackman, SSE (P) MYD,
Waltair Division, Visakhapatnam.
19. Sri T. Srnivasa Rao
KH/TMO, SSE (TM) WAT,
Waltair Division, Visakhapatnam.
20. Sri K. Varma,
Trackman, SSE (P) WAT,
Waltair Division, Visakhapatnam.
21. Sri M. Rama Krishna
Trackman, SSE (P) VSPS,
Waltair Division, Visakhapatnam.
22. Sri A.E. Raj Kumar,
Trackman, SSE (P) VZM,
Waltair Division, Visakhapatnam.
23. Sri G. Satya Rao
Trackman, SSE (P) WAT,
Waltair Division, Visakhapatnam.
24. Sri Y. Joga Rao
Trackman, SSE (P) NWP,
Waltair Division, Naupada, Orissa.
25. Sri D. Chinna Pullaiah,
Mate, SSE (P) ARK,
Waltair Division, Araku, Visakhapatnam.
26. Sri M. Srinivas Rao
Trackman/ MYD,
Waltair Division, Visakhapatnam.
27. Sri Jami Shankar Rao,
Trackman/MYD , Waltair Division, Visakhapatnam.
28. Sri M.K. Misro
Trackman/RGDA
Waltair Division, Rayagada, Orissa.
29. Sri B. Murali Krishna Reddy,
Trackman/ RGDA,
Waltair Division, Rayagada, Orissa.

30. Sri G. Srinivasa Raju,
Denter cum aligner/SDP,
Waltair Division, Visakhapatnam.
31. Sri Chippada Srinivasa Rao
Trackman/MYD, Waltair Division, Visakhapatnam.
32. Sri P.V. Giri, Trackman/VSKP,
Waltair Division, Visakhapatnam.
33. Sri P. Srinivasa Rao ,
Trackman/MYD, Waltair Division, Visakhapatnam.
34. Sri D. Tirupathi Rao
Keyman/NWP, Waltair Division, Nowpada, Orissa.
35. Sri P. Raj Kumar, Trackman/KTV, Waltair Division,
Kothavalasa, Srikakulam.
36. Sri P. Venkata Appalnaidu,
Trackman/CHE, Waltair Division, Visakhapatnam.
37. Sri D. Appadu Sesha Rao,
SR.GK/VZM, Waltair Division, Visakhapatnam.
38. Sri Ch. Balakrishna,
Keyman/NWP, Waltair Division, Naupada, Orissa.
39. Sri G. Sai Shankar Kumar,
Trackman/WAT, Waltair Division, Visakhapatnam.
40. Sri P.R. Ganesh Babu,
Trackman/VSPS, Waltair Division, Visakhapatnam.
41. Sri T.Ravi Shankar,
AT Welder/PVP, Waltair Division, Visakhapatnam.
42. Sri B.J. Patnaik,
Trackman/VSPS, Waltair Division, Visakhapatnam.
43. Sri P. Eswar Rao,
Trackman/VSKP, Waltair Division, Visakhapatnam.
44. Sri M. Prakasa Rao,
Trackman/MYD, Waltair Division, Visakhapatnam.

... Respondents

Counsel for the Applicant ... Mr. V. Ravindranath Reddy

Counsel for the Respondents ... Mr. M. Venkateswarlu, SC for Rlys
Mr. A. Rajendra Babu for RR 7 to 44

CORAM:

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{Per Hon'ble Mr. Justice L.Narasimha Reddy, Chairman}

The East Coast Railway issued a notification on 09.08.2001 proposing to fill up 25 posts of Permanent Way Supervisors through the process of Limited Departmental Competitive Examination (LDCE). The process involved conducting of a written examination, followed by interview. 167 candidates, including the applicants appeared in the written examination and out of them, 34 candidates were declared as qualified. All of them were interviewed and were also subjected to medical examination. At that stage, the notification was cancelled through an order dt. 31.07.2002.

2. Challenging the order of the official respondents in cancelling the notification, some of the aggrieved candidates filed OA No. 779/2002 before the Cuttack Bench of the C.A.T. The Railways pleaded that the cancellation of the notification was necessitated on account of the fact that though 7 posts were to be earmarked for LDCE, all the 25 available vacancies were notified for that category. On examining this plea, the Tribunal passed the order dt.30.03.2004 directing the respondents to renotify the vacancies indicating the reasons for reduction of posts. The order passed by the Tribunal was challenged before the Hon'ble Orissa High Court and the Writ Petition No.11169/2004 was dismissed on 03.05.2012.

3. Thereafter, the respondents initiated the process for filling up 7 vacancies under the same category, on the basis of the original notification dated 9.8.2001.

4. The concerned authority appointed a Committee to process the cases of the applicants and other candidates, who appeared in response to the notification dated 09.08.2001. The Committee took into account, the marks that were awarded in the written test and conducted interview. It has separately awarded marks for other aspects such as the leadership qualities, academic qualifications, record of service, etc., by interviewing the candidates. It was also mentioned that the candidates with 10+2 qualifications shall be preferred. In the list of such successful candidates, none of the applicants were included. Hence, this OA is filed challenging the proceedings through which the candidates were selected.

5. The applicants contend that the Committee has evolved a procedure which is not supported by any provisions of law and phenomenal subjective element was introduced into it. It is also stated that the criteria evolved by the committee cannot be sustained in law.

6. The respondents filed counter affidavits opposing the OA. It is stated that once the order passed in the OA No. 779/2002 has assumed finality, the process was resumed strictly in accordance with the directions issued by the Tribunal and the selection list was displayed.

7. We heard Mr. V. Ravindranath Reddy, learned counsel for the applicants and Mr. M. Venkateswarlu, learned Standing Counsel for respondents 1 to 6.

8. The process which started way back in the year 2001 to fill up the posts of Permanent Way Supervisors under the LDCE remained inconclusive almost for one and half decades on account of the misconception at the time of issuing the Notification. Though a fraction of the available vacancies for the year were to be earmarked for LDCE, all of them were mentioned in the Notification. This serious mistake was noticed only after the process progressed to a substantial extent. The Cuttack Bench of the Tribunal has set aside the order of cancellation. The Railways resumed the procedure to fill the seven vacancies earmarked for LDCE. Candidates were selected and thereafter, appointed.

9. It is true that one candidate who possessed 10 + 2 qualification was denied promotion. The record however discloses that the denial of promotion was on account of the fact that he scored less than the minimum stipulated marks. The concerned authority has followed a norm to the effect that only such of the candidates who have secured minimum of 60 marks in the Written Examination on the one hand, and the aggregate on the other hand, can be selected. This decision was taken in view of the fact that the post is of 'safety' category. The applicants did not challenge the condition so imposed. They cannot challenge the resultant selection at this stage. Added to that, the applicants were not able to reap the benefit of subsequent selections also. At this length of time, it is not at all possible to unsettle the selections that have taken place in accordance with the directions issued by the Cuttack Bench of the Tribunal, as upheld by the Hon'ble High Court of Orissa.

10. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

Dated, the 17th day of December, 2018

evr/pv