

**Central Administrative Tribunal
Madras Bench**

OA/310/01333/2013

Dated 3rd day of May Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

N.Sunil
14 B Railway Colony,
Bells Ground, Trichy Goods Yard,
Tiruchchirappalli. .. Applicant
By Advocate M/s.Ratio Legis

Vs.

1. Union of India, rep by
The General Manager,
Southern Railway, Park Town,
Chennai 600 003.
2. The Sr. Divisional Personnel Officer,
Tiruchchirappalli Division,
Southern Railway,
Trichy. .. Respondents
By Advocate Ms.Meera Gnanasekar

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“....to call for the records related to the Substitute Helper appointment made by the General Manager and further to direct the respondents to appoint the applicant as proposed by the General Manager and to pass such other order/orders as this Tribunal may deem fit and proper and thus to render justice.”

2. The applicant's case is that, as per the Railway Rules, the General Manager is authorised to recruit Substitute Helper from open market and he had filed an application. Out of the candidates selected, only a few candidates were appointed and the Railways had not appointed the remaining candidates without any reason. According to the applicant, the respondents had not appointed the remaining candidates stating that vigilance had taken over the file due to alleged irregularities and CBI investigation is going on. Some of the persons who are not appointed filed OA 448 & 449 of 2011 and the Tribunal had directed the respondents to consider the candidature of the above applicants as per law. According to the applicant, the applicant was also one among the candidates and he is also entitled to get appointment as per selection made by the General Manager.

3. The respondents appeared and filed a detailed reply stating that it is the discretion of the General Manager to appoint Substitutes in various Zonal Railways. These appointments were made depending on the need and exigencies of the situation. During the period from 29.6.2005 to 17.7.2007 the then General Manager

received about 80 applications for appointment as substitutes and the applicant was one among them. Out of the 80 applications received, 43 were approved and orders were issued for appointment for 28 candidates. The communication with respect of 50 remaining persons were not issued as there was a vigilance enquiry regarding discrepancies etc. which had crept into selection. In the meantime, WP 22071/2008 was filed by the Secretary, Tamil Nadu State Committee, Democratic Youth Federation of India, Chennai, before the Hon'ble Madras High Court and the Hon'ble High Court has called for the report of CBI and other officials. Thereafter, the Railway Board has issued fresh guidelines and instructions for engaging substitutes by General Manager as per letter No.E(NG)II/2008/SB/8 dated 24.6.2009 and the Hon'ble High Court has disposed of the WP on 11.11.09 with direction. Thereafter, no approval was given to the applicants who were not appointed. According to the respondents, the applicant was never issued with any letter of appointment and he is not entitled to get any appointment in the above category. Now the applicant seeks for appointment on the basis of the order passed in OA 448 & 449 of 2011. The above representation of the applicant in OA 448 & 449 of 2011 were considered as per order and they were rejected by the General Manager. So, according to the respondents, the applicant is not at all entitled to get the relief as claimed by him.

4. We have heard both sides and perused the pleadings. The counsel for the applicant did not appear for arguing the matter. The counsel for the respondents

submitted his arguments and contended that the applicant has no right to claim any appointment as narrated in the OA. On a perusal of the pleadings and the reply statement, it can be seen that the then General Manager, Southern Railway had selected the above 43 applications for appointment to the post of Substitute Helper for the period from 29.6.2005 to 17.7.2007 and out of the said applicants, only 28 were appointed. The remaining 15 were not appointed. There was a vigilance case stating discrepancies in the selection of the Substitute Helper and the CBI enquiry was also constituted. An Association has filed a WP 22071/2008 and the Hon'ble High Court has disposed of the WP stating that “we earnestly hope that the second respondent will ensure that the guidelines for appointment of Substitutes are strictly followed and it is better that the discretion is not vested with one single person.”

5. From the above, it can be seen that the selection claimed by the applicant was vitiated by some irregularities and because of that, vigilance enquiry was initiated and the remaining candidates were not given any appointment. Even though the applicant claims for appointment, there is no right vested in him so far to claim such an appointment. He was not given any offer of appointment and he was not appointed as Substitute Helper till date. It is for the employer to decide whether an employee has to be appointed or not. In the absence of any specific order issued in favour of the applicant, he cannot claim as of right that he should be appointed as Substitute Helper by the respondents. In view of the above discussion, we find that there is no

merit in the OA and the applicant is not entitled to get any appointment as claimed by him. The OA is devoid of any merit and is liable to be dismissed. Accordingly, OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

03.05.2019

(P.Madhavan)
Member(J)

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