

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/819/2014

Hyderabad, this the 24th day of December, 2019



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

B. Veera Swamy, S/o. Anjaiah, aged 43 years,
Occ: Loco Pilot (Goods), O/o. The Chief Crew Controller,
South Central Railway, Secunderabad Division,
Kazipet R.S., R/o. H. No. 25-6-332,
Vishnupuri, Kazipet, Warangal District.

... Applicant

(By Sri K.R.K.V. Prasad, Advocate)

Vs.

1. Union of India, Represented by
The General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Senior Divisional Personnel Officer,
Secunderabad Division, Sanchalan Bhavan,
South Central Railway, Secunderabad.
4. A. Muralidhar, Occ: Loco Pilot (Goods),
O/o. The Chief Crew Controller,
Kazipet RS, South Central Railway.
5. D. Prasanna Babu, S/o. V. Durai,
Aged about 43 years, Occ: Loco Pilot (Goods),
O/o. Chief Crew Controller, Kazipet,
Secunderabad Division, South Central Railway.

... Respondents

(By Sri V.V.N. Narasimham, SC for Railways;
Sri M.C. Jacob, Advocate for R-5)

ORDER (ORAL)
{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}



The applicant was appointed as Assistant Loco Pilot in the year 1994 by the Railway Recruitment Board (for short “RRB”). He was allotted to Guntakal Division of South Central Railway. One Mr. K. Venkata Ramudu was also working as Assistant Loco Pilot in the Secunderabad Division. Applicant and Mr. K. Venkata Ramudu got mutually transferred and the applicant joined the Secunderabad Division in the year 1996. The applicant was also extended the benefit of promotion to the post of Loco Pilot (Goods) and Loco Pilot (Passenger), over the period. It is stated that his seniority was also fixed in the various lists that were issued, from time to time.

2. The respondents issued a notice to the applicant on 20.09.2013 requiring him to explain as to why his seniority be not changed. According to them, whenever a mutual transfer takes place, the place shall be fixed in the seniority list in respect of the transferred candidates in such a way that they are put at a place vacated by the mutual transferee or in accordance with the date of promotion, whichever is lower and that on account of non-observance of that rule, the applicant was placed at a higher position, in the seniority list. After considering the explanation submitted by the applicant, the respondents issued an order dt. 11.02.2014 revising his position in the seniority list for the post of Loco Pilot. The same is challenged in this OA.

3. The applicant contends that seniority was fixed long ago and on that basis, promotions were also effected and it is not open to the respondents to

alter the seniority at this length of period. He apprehends that the revision of seniority may also effect his promotions already granted.

4. The respondents filed a detailed counter affidavit. It is stated that seniority was fixed on a wrong notion in the earlier list and on consideration of the representations made by several effected candidates, the impugned order was issued.

5. We heard Mr. K.R.K.V. Prasad, learned counsel for the applicant and Mr. Bhim Singh, learned Advocate representing Mr. V.V.N. Narasimham, learned Standing Counsel for the respondents 1 to 3 and Mrs. G. Manjula, learned Advocate representing Mr. M.C. Jacob, learned Counsel for R-5.

6. The applicant from Guntakal Division and Mr. K. Venkata Ramudu from Secunderabad Division got mutually transferred. It is important to note that, both of them were selected in the same batch by the RRB. While Mr. Venkata Ramudu was assigned rank of 394, the applicant was placed at Sl. No. 196. It appears that, on transfer to Secunderabad Division, the applicant was assigned the place vacated by Mr. Venkata Ramudu in the seniority list, without taking into account, the dates of their appointment. The applicant may have been in higher position in the ranking assigned by the RRB. The fact, however, remains that there are certain principles, which guide the allocation of seniority to the employees, who come on mutual transfer. If it is ordinary transfer, on request, the employee will be assigned the lowest place in the seniority list. As regards the mutual transfer, the Railways have evolved a procedure in this behalf. Para 310 of IREM Vol. I reads as under:



“.... the railway servants transferred on mutual exchange from one cadre of a division, office or railway to the corresponding cadre in another division, office or railway shall retain their seniority on the basis of the date of promotion to the grade or take the seniority of the railway servants with whom they have exchanged, whichever of the two may be lower.”



From this, it is evident that two factors determine the place of an employee, who comes on mutual transfer. The first is the place vacated by the person who left the unit and the second is the date of appointment. The date of appointment of the applicant is 01.07.1994, whereas, that of Mr. Venkata Ramudu is 06.01.1994. According to the Rule, extracted above, one has to take the place according to the date of appointment or the place vacated by the transferred employee, whichever is lower. It is with reference to this Rule that the place of the applicant was changed.

7. We do not find any merit in the OA and is accordingly dismissed. We, however, direct that the applicant shall not be reverted on the basis of the change of seniority and if it is found that he was promoted out of turn, he shall be continued in the concerned post, but shall be assigned the appropriate place in the seniority list, for the post, strictly in accordance with the relevant rules.

8. There shall be no order as to costs.

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

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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