

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/579/2014

HYDERABAD, this the 23rd DAY OF JANUARY 2020

Hon'ble Mr. ASHISH KALIA, MEMBER (J)
Hon'ble Mr. B.V. SUDHAKAR, MEMBER (A)

T PRABHAKAR RAO,
S/o Late Krishnamurthy Patnaik,
Aged 63 years, Occupation: Retd. Head Clerk,
Stores Depot, O/o Dy.CE(C)/VSKP,
East Coast Railway, Visakhapatnam,
R/o D.No.1-15-1, Plot No.402,
Ratnam Arcade, Opp: Baptist Church,
Cantonment, Vijayanagaram 535003, AP.

APPLICANT

(By advocate: V.Ravindranath Reddy)

Vs.



1. Government of India represented by its
General Manager, East Coast Railway,
Bhubaneswar, Orissa 751017,
2. The Chief Administrative Officer (Construction),
East Coast Railway,
Bhubaneswar, Orissa 751017,
3. The Senior Personnel Officer (Con)/Coordn,
East Coast Railway,
Bhubaneswar, Orissa 751017,
4. The Chief Engineer (Construction),
East Coast Railway,
Bhubaneswar, Orissa 751017,
5. The Dy. Chief Engineer (Construction),
East Coast Railway,
Visakhapatnam 530 016,
6. The Assistant Executive Engineer (Construction),
East Coast Railway,
Visakhapatnam 530 016,
7. The Senior Personnel Officer (Construction),
East Coast Railway,
Visakhapatnam 530 016,

Respondents

(By advocate: Mr. N.Srinivasa Rao, SC for Railways)

ORAL ORDER

PER HON'BLE Mr. **ASHISH KALIA, MEMBER (J)**

Following reliefs are sought by the applicant:-

“To declare the action of the respondents in rejecting the claim of the applicant for arrears of salary in the post of Head Clerk worked as DMS/DSK Visakhapatnam, and DSK Rayagada from 21.05.2004 to 10.09.2008 though he worked in the post from the years 1994 to 31.07.2009 i.e. till the date of his retirement intimated through proceedings of 3rd respondent bearing No.SPO/C/C9-Ordin.BBS/RTI/PG/TPR/448/002077 dated 14.05.2013 by enclosing proceedings of him bearing No.E/5-1/Clerks/Part xiv/165 dated 18.03.2013 as highly arbitrary and illegal and set aside the same, and direct the respondents to pay the arrears of salary to the applicant in the post of Head Clerk worked as DMS/DSK Visakhapatnam and DSK Rayagada from 21.05.2004 to 10.09.2008 as he physically worked and shouldered the responsibility of these posts during the period.”



2. Applicant joined Respondents' organization and lastly promoted as Head Clerk by the respondents with effect from 10.09.2008 vide Annexure A-XIV at page 27 of the OA. The order reads as under:

“Shri T.Prabakara Rao, Sr.Clerk (PCR) regular in scale Rs.4500-7000(RSRP) working under Dy.CE/C/VSKP is hereby promoted as Hd.Clerk in scale Rs.5000-8000 (RSRP) w.e.f. 18.02.1999 i.e., the date of his junior promoted as Hd.Clerk on regular measure against the vacancy of PCR Hd.Clerk sanctioned for C/C/VSKP's unit.”

3. Applicant earlier filed OA 943/2010 whereby this Tribunal decided the issue and the respondents have categorically admitted the fact that the applicant was posted as Head Clerk, DSKlin 1994 and continued upto his superannuation on 31.07.2009. Since the applicant had worked on this post from the date of the order, but he has not been paid the salary on that post, on the pretext that some disciplinary proceedings are pending against him since 1994 which were dropped ultimately. Further proceedings were initiated under Rule 16 of CCS (CCA) Rules i.e., minor penalty charge sheet, and the penalty so awarded is that of stoppage of one privilege pass which has no bearing on the promotion. Learned counsel for the respondents has tried to impress upon this Tribunal that because of the disciplinary proceedings, the applicant may not have been given his charge for continuing in such post. But the respondents themselves have given this promotion order to him on 10.09.2008. Now the respondents cannot deny making payment of salary and wages to the applicant as the doctrine of estoppel comes to play on the act of the respondents. Applicant has worked on the post of Head Clerk. He is entitled for getting salary and wages, otherwise, it amounts to exploitation of the employee by the employer, will be established.

4. In view of the above, we are of the considered view that the present OA merits consideration for granting the relief sought for.

5. Ordered accordingly. Respondents are directed to make payment within 90 days from the date of receipt of this order.



6.. With the above directions, the OA is allowed.

7. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)

(ASHISH KALIA)
MEMBER (J)

vsn

