

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01380/2014

HYDERABAD, this the 3rd day of December, 2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



M. Dakshina Murthy S/o. V.Manikyam Mudaliar,
Aged about 63 years, Retired Technician-I, (Ticket No.7068),
Carriage Movement shunting Yard, Carriage Repair Shop,
South Central Railway, Settipally Post,
TIRUPATHI-517506, District Chittoor. ...Applicant

(By Advocate : Mrs. Rachna Kumari)

Vs.

- 1.The Union of India, Rep by
General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.
3. The Chief Works Manager,
Carriage Repair Shop,
South Central Railway, Tirupathi-517 506.
4. The Workshop Personnel Officer,
Carriage Repair Shop,
South Central Railway, Tirupathi-517 506.
- 5.P.R.Narendra Gnanasri S/o Not known,
Aged about 59 years, working as
Master Craftsman (MCM), (Ticket No.7080),
Carriage Fitting Shop, Carriage Repair Shop,
Tirupathi-517 506.
- 6.Mohd.Arif S/o Not known,
Working as Master Craftsman (MCM), (Ticket No.7100),
Carriage Body Repairs, Carriage Repair Shop,
Tirupathi-517 506.Respondents

(By Advocate: Mr. D. Madhava Reddy, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA has been filed aggrieved for not re-fixing seniority on par with juniors consequent to joining the Carriage Repair Shop, Tirupathi from the parent unit of Guntakal Division.

3. Brief facts of the case are that the applicant joined the Mechanical Department of respondents organisation as casual labour on 14.9.1977 and his services regularised on 31.12.1978. Railway Board issued a Circular on 13.11.1982 to reclassify 60% of unskilled posts in Workshops and 50% in open line as Khalasi Helper in Semi Skilled Grade w.e.f. 1.8.1978. In pursuance of the Railway Board Memo, applicant was promoted to Semi Skilled Grade on 22.11.1980. Respondents called for options to be posted in the Carriage Repair Shop (CRS), SC Railway, Tirupathi on 8.12.1981 and responding to the same, applicant gave his option and joined on 6.11.1984. Even though the applicant was working in the semi skilled grade he was absorbed in the unskilled grade in the CRS. Later, he was promoted to the semi skilled grade, skilled grade, Highly skilled grade –II (HSK) and finally as HSK –I on 1.3.1993. The applicant was promoted to semi skilled grade on 22.11.1980 in the mechanical department before joining CRW and if it was reckoned applicant would have been promoted to the skilled and highly skilled grade –II long time back. Juniors to the applicant in the semi skilled grade got their seniority revised by approaching the Tribunal like Sri N.M. Raju and Sh. V.G.V. Rangachary in OAs 706/96 & 1095/1999 respectively. Yet, he was given the seniority of

Khalasi (Unskilled) in CRS even though he was working in the semiskilled grade as on the date of absorption in CRS. Applicant made several representations dated 13.2.1997, 6.11.2000, 16.11.2000, 29.1.2001, 17.12.2002, 11.4.2007 and finally on 10.6.2014 after retirement on 31.5.2011, pointing out that his juniors in the semi skilled grade were granted the seniority benefit. For being denied the revision of seniority and the consequential fixation of pension and pensionary benefits the OA has been filed.



4. The contentions of the applicant are that the applicant was belatedly relieved by the parent unit on 5.11.1984 to join CRS, Tirupathi. Though the applicant was working in the semi skilled grade in the parent unit, he has been absorbed in the unskilled grade in CRS. As per Railway Board re-classification order, the applicant has to be granted promotion to the semi skilled grade from 1.8.1978, but not from 22.11.1980.

5. Respondents in their reply statement state that the applicant joined CRS on 6.11.1984 and as per Railway Board order dated 13.11.1982 he was promoted as Khalasi Helper semi skilled grade on 20.11.1980 when he was working in the parent unit. Respondents state that the applicant could not have been promoted from 1.8.1978 to semi skilled grade since he would not be sufficiently senior in the unskilled category to come within the zone of consideration of 50% of khalasis working in unskilled posts. The file could not be traced at this distant date. The condition for absorption in CRS was that he would be absorbed only as khalasi unskilled and hence he was reverted as Khalasi unskilled from semi skilled grade by the parent unit and then relieved to join CRS. After joining applicant was promoted from

Khalasi Helper in 1986 to Technical grade I in 1993. Further, the seniority of the juniors namely Sri N.M. Raju, Sri V.G.V. Rangachary was revised as per Tribunal orders in OAs filed by them. Applicant represented on 13.2.1997 and the latest one is 10.6.2014 after his retirement. The OA suffers from limitation since the applicant retired on 31.5.2011 and the OA has been filed in 2014. To revise the seniority after retirement and grant promotions accordingly would not be possible because promotions are to be granted based on suitability and monetary benefits cannot be extended without holding the posts.



6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about revising the seniority of the applicant by considering the date of promotion of the applicant to the semi skilled grade in the parent unit on 20.11.1980 and based on the same antedating the later promotions granted to the applicant. The career of the applicant in the respondents organisation started as a Casual labour on 14.9.1977 and his services were regularised on 31.12.1978.

II. Notification was issued by CPO/Tirupathi on 8.12.1981 calling for options to be posted to different posts in CRS/Tirupathi. Applicant opted for the same and joined CRS on 6.11.1984. Before joining CRS applicant was reclassified/promoted to semi skilled grade Khalasi on 20.11.1980 in accordance with Railway Board memo dated 13.11.1982 in the Mechanical Department of C& W wing coming under the jurisdiction of Guntakal Railway Division. However, when the applicant opted for CRS/ Tirupathi he was reverted to the post of unskilled post of Khalasi and then relieved to join CRS in 1984. The transfer order, wherein the applicant name figures,

issued by the Divisional Office, Personnel Branch, Guntakal dated 201.1984, has the following condition:



“If the above employees have been promoted to higher grades in their parent units during the intervening period between the date of Option Screening and issue of transfer orders, they should not be relieved unless they are prepared to go over to carriage repair shop work shop, TPTY in the scale which they were holding at the time of option as ordered above. Necessary declaration to this effect must be obtained from the above named employees if they are now holding higher grade posts. “

From the above it is clear that the applicant was relieved only if he were to be agreeable to go over to CRS/Tirupati in the scale which he was holding when he opted for CRS/ Tirupathi by foregoing the promotion to the semi skilled grade as Khalasi. Only after a declaration agreeing to the above, respondents claim, was the applicant relieved to join CRS / Tirupathi. After joining CRS Tirupathi applicant was promoted as Khalasi Helper semi skilled, Technician grades III , II and I on 28.5.1986, 4.8.1986, 12.2.1991 and 1.3.1993 respectively. Therefore, after accepting the condition and joining CRS, it may not be reasonable to seek seniority in Khalasi Helpers (Semi Skilled) Grade granted to the applicant in the parent Unit.

III. It is true that his juniors in the semi skilled grade, who were similarly placed got their seniority re-fixed by approaching the Tribunal in OAs 706/96 & 1095/1999. However, applicant submitted the first representation on 13.2.1997 and followed it by many more till he made the last representation on 10.6.2014 after his retirement on 31.5.2011. When the applicant was not getting relief sought he would have approached the Tribunal to seek relief on par with the other similarly placed employees. Instead of doing so, applicant has approached the Tribunal in 2014 after

retiring in 2011 seeking revision of seniority and consequential promotions.

The applicant should have been alert in seeking relief in time and for not doing so he cannot blame anyone except himself. Such an approach cannot be encouraged as observed by the Hon'ble Supreme Court in **State of U.P.**

& Ors v. Arvind Kumar Srivastava & Ors on 17 October, 2014 in Civil



Appeal No.9849 of 2014 (Arising out of SLP (C) No. 18639 of 2012) as under:

However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim. (3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see [K.C. Sharma & Ors. v. Union of India](#) (supra)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.

In view of the above observation of the Hon'ble Apex Court, the applicant would not be eligible for the relief sought. The orders issued in the OAs referred to were not in personam. Applicant is seeking the relief of revising seniority fixed 34 years back. Relief was granted to the juniors some 19 years earlier and it is not explained by the applicant as to why he did not act

promptly to seek similar relief from the Tribunal after the others got the relief.

III. Besides, promotions are based on many factors including the aspect of suitability of the applicant for the higher post to which he is considered at the relevant point of time. Further, settled seniority cannot be revised after a lapse of long period of time as observed by Hon'ble Supreme Court in ***Shiba Shankar Mohapatra v. State of Orissa, (2010) 12 SCC 471***, at **page 483**, as under :



30. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained.

Applicant, after retirement in 2011, filed the OA in 2014 seeking revision from 1980, which cannot be granted in view of the legal principle laid down by the Hon'ble supreme cited supra.

III. The other averment made by the applicant stating that that his promotion to semi skilled grade has to be considered from 1.8.1978 as per Railway Board memo dated 13.11.1982 would not hold good since applicant has not produced any document to prove that he was senior enough to be within the 50% of unskilled Khalasi staff to be considered for reclassifying /promoted as Khalasi helper in semi skilled grade. The respondents have submitted that the file is not traceable at this date and that probable reason for the applicant not being considered on 1.8.1978 is that he could not have come under 50% of unskilled staff eligible to be promoted/ reclassified as Khalasi helper in semi skilled grade. The parent unit has relieved some others along with the applicant in November 1984 as

per the transfer order record and therefore it cannot be said that the applicant has been singled out to be belatedly relieved. When moving staff from one unit to the other, substitute arrangements have to be looked into so that there is no dislocation of work. Administrative interests while making the arrangements under reference, cannot be overlooked.



IV. Therefore, in view of the above, the action of the respondents is in accordance with rules and as per law. We do not find any merit and hence the same is dismissed with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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