

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXXX

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DATE OF DECISION 13.9.1991

A.R.Ramanathan Applicant (s)

Mr.K.Ramakumar Advocate for the Applicant (s)

Versus

UDI rep. by the General Manager Respondent (s)
Southern Railway, Madras & 2 others

Smt.Sumathi Dandapani Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman

and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? *m*
3. Whether their Lordships wish to see the fair copy of the Judgement? *m*
4. To be circulated to all Benches of the Tribunal? *m*

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

The applicant initially appointed as Server in the Department of Catering under the Commercial Department of the Southern Railway on 30.3.1956 was first promoted as Bill Issuer then as Assistant Manager and as Catering Supervisor Grade II. He was promoted as Catering Supervisor Grade I on an adhoc basis with effect from 8.7.1986. As he could not attend the selection test held in the year 1986 for promotion to the post of Catering Supervisor Grade I on ^a regular basis, by the impugned order at Annexure-B dated 15.6.1990 he was reverted as Catering Supervisor Grade II.

Challenging his reversion and praying that the respondents may be directed to regularise the applicant as Catering Supervisor Grade I with effect from 8.7.1986 treating the post of Catering Supervisor Grade I as a non-selection post as was held by the Madras Bench of the Central Administrative Tribunal in OA 294/87, the applicant has filed this application under Section 19 of the Administrative Tribunals Act.

2. The respondents in the reply affidavit resisted the application on the ground that the post of Catering Supervisor Grade I is a selection post, and that as the ^{applicant} ~~the~~ did not qualify in the selection test he has no right to hold that post.

3. On the basis of the contention raised on either side, we heard the arguments of the counsel on either side and have perused the records carefully and posted the case for pronouncement of judgement. In the meanwhile the respondents have filed M.P.1126/91 stating that, as in implementation of the judgement of the Madras Bench of the Central Administrative Tribunal in OA 294/87 Catering Supervisors Grade II were promoted as Catering Supervisors Grade I towards the vacancies which were in existence as on 21.11.1986 and which arose upto 23.1.1989 on the basis of their seniority cum suitability treating the posts as non-selection posts, and as the applicant has been promoted as Catering

Supervisor Grade I on a proforma basis with effect from 21.11.1986 by order dated 16.8.1991 at Annexure-R4, the application can be disposed of without going into the merits of the rival contentions.

4. Annexure-R4 was taken on file and the counsel on either side were again heard.

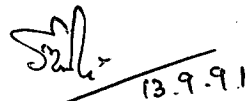
5. Now that the applicant has been promoted as Catering Supervisor Grade I on a proforma basis with effect from 21.11.1986, we are of the view that it is not necessary to render a judgement on merits as there is no more dispute to be settled on that point. The learned counsel for the applicant submitted that the applicant was reverted as Catering Supervisor Grade-II by Annexure-B order dated 15.6.1990, that even in Annexure-R4 since it is stated that the applicant stood reverted as Catering Supervisor Grade-II with effect from 6.10.1990 and that as it is provided that he would get higher pay from the date of assumption of higher responsibilities it is just and necessary to direct the respondents to post the applicant as Catering Supervisor Grade-I forthwith, to treat that the reversion under Annexure-B did not take effect at all and to pay him the difference ^{of the pay} ~~and~~ allowances which was actually paid to him as Catering Supervisor Grade-II from 6.10.1990

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till he ^{is} posted as Catering Supervisor Grade I. We are of the view that this request of the applicant is reasonable and justified since Catering Supervisors who were junior to him and were promoted regularly on a proforma basis which later than him continued to be Catering Supervisors Grade I while he was reverted. This reversion of the applicant by the impugned order at Annexure-8 dated 15.6.1990 therefore ~~was~~ unjustified.

6. In the result, having found that the applicant has been promoted on a regular basis from 21.11.1986 by Annexure-R4 order we dispose of the application with a direction to the respondents to post the applicant as Catering Supervisor Grade I immediately and to pay him the difference in pay and allowances from the date on which he was reverted as Catering Supervisor Grade II (6.10.1990) till the date on which he is reinstated to the post of Catering Supervisor Grade I and to treat that the reversion has not taken effect. There is no order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

13.9.1991