

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 82 of 1987

Date of order 10-11-1989

Between

N.Narasimha Rao

Applicant.

Versus:

Union of India, rep. by the  
General Manager, S.C.Railway,  
Lalaguda, Secunderabad and  
2 others.

Respondents.

Counsel for the Applicant: Shri B.Nalin Kumar

Counsel for the Respondents: Shri P.Venkatarama Reddy

CORAM:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI J.N.MURTHY : MEMBER (JUDL).

(Judgment of the bench delivered by Shri B.N.JAYASIMHA:H.V.C)

1. This is an application from a Driver B Grade, who is aggrieved because he has not been promoted as Driver 'A' Grade.

2. The applicant states that he <sup>joined</sup> the Railway as an Engine Cleaner in 1945 at Kazipet. He was promoted as Fireman 'C', Fireman 'B', Shunter 'B', and later as Driver 'C' and Driver 'B'. In 1982 he submitted an application to the Divisional Railway Manager (B.G). for transfer to Hyderabad as he was nearing his retirement age, <sup>and</sup> as he belongs to Alwal in the City of Secunderabad. His request was accepted and was posted under Divisional Manager (M.G), Hyderabad. Respondents 2 issued orders dated 24-3-1983 promoting the applicant as Driver 'B' and posted him in Akola in Maharashtra State. He made representation against his posting to Akola and the applicant was retained in Lallaguda, without however passing any order on his representation. Two juniors of his who were also transferred out

*over*

of Hyderabad, were retained in Lallaguda, and they were also promoted as Driver 'A'. He also states that he has been driving passenger trains which are allotted to Driver 'B' Grade. However, he is given only the pay of Driver 'C'. He contends that ~~arbitrary~~ <sup>arbitrary and</sup> discriminating him against his juniors is <sup>malafide</sup>. Another order dated 21-10-1985 transferring him to Purna <sup>was issued at the same time</sup> retaining his juniors <sup>at</sup> Lallaguda. He <sup>has</sup> therefore filed this application claiming that the action of the respondents in not promoting him as Driver 'A' <sup>while</sup> and retaining his juniors is arbitrary and violative of Articles 14, and 16.

3. In their reply, the Respondents say that the applicant was transferred to Lallaguda at his own request. While he was working at Lallaguda he was promoted as Driver 'B' along with 54 others by an order dated 24-3-1983 and posted to Akola. As he was transferred on promotion, there is no arbitrary action. The request of the applicant to retain him in Lallaguda was rejected as there was no vacancy of Driver 'B' Grade. The contention that he was allowed to work as Driver 'B' Grade on a regular basis is not correct. In his representation dated 18-7-1983 he refused his promotion and requested for <sup>retaining</sup> retain him in Lallaguda. ~~his~~ His juniors K. Johnson and Shaik Mehaboob Shirajuddin were ~~promoted~~ retained at Lallaguda and promoted later <sup>as</sup> Driver 'A' only <sup>on</sup> administrative grounds. The applicant worked as Driver 'C' Grade in M.G. Division and officiated as Driver 'B' Grade whenever a leave vacancy arose and he was paid officiating allowance and mileage allowances on such occasions. The contention that he was paid only Driver 'C' Grade pay whenever he worked as Driver 'B' is therefore not correct.

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To

1. The General Manager,  
Union of India, South Central Railway,  
Lalaguda, Secunderabad.
2. Divisional Railway Manager, (P),  
M.G. Division, South Central Railway,  
Lalaguda, Secunderabad.
3. Divisional Personnel Officer,  
M.G. Division, South Central Railway,  
Lalaguda, Secunderabad.
4. One copy to Mr. S. Nalin Kumar, Advocate  
10-3-29/2, East Merredpalli,  
Secunderabad.
5. One copy to Mr. P. Venkatarama Reddy, SC for Railways,  
CAT., Hyderabad.
6. One spare copy.

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4. The applicant was once again considered for promotion for the post of Driver 'B' and was promoted by an order dated 21-10-1985 and posted to Akola. He failed to carryout the transfer order, whereas his juniors joined as Driver 'B' whenever they were posted. Again, he was promoted as Driver B' <sup>under</sup> the upgradation scheme with effect from 1-1-1984 and posted to Akola under order dated 28-5-1986. He did not carryout the order and <sup>so</sup> he did not get the upgradation benefit. The applicant retired on 30-6-1987. As the applicant failed to carryout the order issued promoting him, <sup>on</sup> three occasions, he continued to work as Driver 'C'. The claim of the applicant that he should be promoted as Driver 'A' with effect from the date his juniors were promoted and that he should be paid the salary of Driver 'B' from 24-3-1983 the date his juniors were promoted to Driver 'A' Grade is untenable.

5. We have heard Shri Nalin Kumar learned counsel for the applicant and Shri P. Venkatarama Reddy learned counsel for Respondents. The facts narrated above ~~show~~ that the applicant was considered for promotion in his turn on three occasions. On all these occasions, he refused to carryout the promotion order preferring to remain in Lallaguda. He has also been paid the officiating pay whenever he was asked to work as Driver 'B'. during leave vacancies. We therefore do not see any merit in this application. The application is dismissed. No order as to costs.

*B.N. Jayasimha*  
 (B.N. JAYASIMHA)  
 Vice-Chairman

*J.N. Murthy*  
 (J.N. MURTHY)  
 Member (J)

Dated 10<sup>th</sup> November 1989.

VCR.

*S. Venkatar*  
 DEPUTY REGISTRAR (J)  
 15-11-89

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