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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO.174 of 1987

30.1.1990
Date of order: February, 1990

Mr. Maisaiah and 6 others

Applicants

Vs.

Union of India, rep. by
the Secretary, Ministry of
Railways and 9 others

Respondents

For Applicants : Mr. M.Vijaya Prakash, Advocate
For Respondents : Mr. N.R.Devaraj, SC for Railways
Mr. P.Krishna Reddy, Advocate for R4 to R10.

CORAM: Hon'ble Shri B.N.Jayasimha, Vice Chairman
Hon'ble Shri J.Narasimha Murthy, Member (Judl.)

JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYASIMHA,
VICE CHAIRMAN

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The applicants herein who were Firemen 'C' had filed this application challenging the order No. CP/563/P/11/1/ II-Fireman dated 23.10.1986 issued by the Divisional Railway Manager in which the representations made by the Union/employees have been disposed of.

2. The applicants state that they were appointed as Casual Labourers during the years 1963 to 1973 and were appointed as regular Yard Khalasis between the years 1965 and 1973. They were all promoted in 1981 as Firemen 'C'. The respondents 4 to 10 were appointed during the years 1971 to 1974 as casual labourers and as Yard Khalasis they were appointed during the years 1971 to 1980. The respon-

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dents 4 to 10 were promoted as Firemen 'C' in the years 1985 to 1986. Thus, all the respondents are junior to the applicants.

3. The respondents filed a Writ Petition No.6319/82 in the High Court of Andhra Pradesh against promotion orders issued on 1.6.1982 and 4.8.1982. The applicants were not made party in the writ petition. The High Court of Andhra Pradesh allowed the writ petition on 24.4.1985. Without issuing any notice to the applicants, the Railway administration issued seniority list showing the respondents 4 to 10 as seniors to the applicants. The applicants contend that the Department has wrongly applied the Judgment of the Andhra Pradesh High Court. The applicants made several representations both personally and through the Unions seeking a review of the seniority list. However, their grievances have not been redressed. Hence, they have filed this application.

4. The respondents in their counter stated that the Department revised the seniority list in accordance with the direction issued by the High Court of Andhra Pradesh in writ petition No.6319/82 wherein the High Court stated that the petitioners therein are entitled to count the seniority from the date of completion of six months continuous service. Accordingly, the seniority list was revised vide O.O.No.PE/21/E L/WP No.6319 of 1982 dated 9.1.1986. In that, respondents names were interpolated in accordance with the High Court's directions. The affected staff were intimated well in advance through their respective Supervisors. Thereafter, promotion order for two Firemen was issued under letter No.CP/563/64/P 11/1/II FM and S.O.O. No.26/EIR/86 dated 20.5.1986 i.e., after four months. No representations were received against these orders.

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It is only in July 1986, the applicants submitted representations stating that their juniors viz., respondents 4 to 10 are made senior to them and were promoted. Their representations were replied to through the impugned order dated 23.10.1986 stating that the seniority of the respondents has been revised and their revised seniority position has already been intimated to all Depots vide letter No.P E/21/EL/WP No.6319 of 1982 dated 9.1.1986. Inasmuch as no representations were received from the applicants ^{which} for the seniority list was published the applicants cannot at this stage seek review of the seniority list. For these reasons the department opposes the application..

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Shri N.R. Devaraj, learned counsel for the applicant

5. We have heard Shri N.R. Devaraj, learned Standing Counsel for Railways and Shri P. Krishna Reddy, learned counsel representing respondents 4 to 10 is also present. Shri Devaraj states that the seniority list was revised ~~in~~ pursuant to the judgment of the High Court of Andhra Pradesh interpolating the names of the Writ Petitioners (Respondents here-in) at the appropriate places giving them seniority from the date they had completed six months of temporary service. The seniority list was published and the applicants herein did not make any representation against that seniority list. The applicants submitted their representation during the month of July 1986 stating that their juniors (Respondents) have been made seniors due to interpolation and were promoted in ~~up~~graded posts as II Fireman Grade Rs.260-350 (RS) under restructuring of Loco Running Cadre. Their representation was considered and replied through the impugned order dated 23-10-1986 stating that the seniority of respondents has been revised and their

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revised seniority position has already been intimated to all depots. He therefore contends that since the applicants did not challenge the seniority list published earlier, they cannot now question the seniority which was published after issue of due notices.

6. From the fact narrated above, it is seen that the seniority list was revised to interpolate the names of the respondents consequent to the Judgement of the High Court of Andhra Pradesh. The applicants did not object to the seniority list so published. The applicants having not questioned the seniority list at the appropriate time, cannot challenge the same now. In the result, the application is liable to be dismissed and it is accordingly dismissed. No costs.

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

MS
(J. NARASIMHA MURTHY)
Member (J)

Dated 30th January, 1990
(Dictated in the open court)

vsn/vcr.

S. Srinivasulu
DEPUTY REGISTRAR (J)
5/2/90

TO:

1. The Secretary, (Union of India) Ministry of Railways, New Delhi.
2. The Divisional Railway Manager (Personnel) (Broad Gauge) south central railway, Sec'bad.
3. The Divisional Mechanical Engineer (Broad Gauge) South central railway, Sec'bad.
4. One copy to Mr. M. Vijay Prakash, Advocate, 1-8-423, Chikkadpally, Hyderabad-20.
5. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad 8xx8xx8x for RR 1 to 3.
6. One copy to Mr. P. Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad for RR 4 to 10.
7. One spare copy.

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