

66
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 219 of 1987

Date of Order: 22/02/90

S.K.Satyanarayana

..Applicant

Wards

1. The General Manager,
SC Railway, Secunderabad.
2. The Chief Personnel Officer,
S.C.Railway, Secunderabad.

..Respondents

Mr. Venkata Sastry, Advocate for

For Applicant: Mr. Sivarama Sastry, Advocate

For Respondents: Mr. P. Venkatarama Reddy, SC for Railways

C O R A M:

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

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

(Judgment delivered by Shri B.N.Jayasimha, Vice Chairman)

1. The applicant herein ~~who~~ was appointed as a Typist in Hubli Division of Southern Railway on 29-11-1957. He was posted, on being considered fit to work as Steno-typist to AEn's Office on the ^{Scale} of typist with a special pay of Rs.30/- with effect from 10-12-1962. Thereafter he was fitted against an upgraded post of Sr.Typist in the scale of Rs.130-300 w.e.f. 1-6-1963. His pay was fixed at Rs.140/- + Rs.21/- PP w.e.f. 1-6-1965. The

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(67)

applicant opted for transfer~~s~~ to Headquarters Office of South Central Railway and he was transferred to the Headquarters as a Senior typist. It is stated that an integrated seniority list of senior typists had been prepared and circulated (a) as on 2-10-66 and (b) as on 1-3-1974. On 18-9-1980 sanction was accorded for revised distribution of posts in the category of typists and consequently four posts of Head Typists in the scale of Rs.425-700 had come up for upgradation with effect from 1-10-1979. The applicant's case is that he was initially promoted ~~only~~ from 28-2-1981. On his representation claiming promotion with effect from 1-10-1979 in terms of the decision rendered by the Learned Payment of Wages Authority in PWA No.41 of 1981 dated 16-4-1983, the applicant was given this benefit. Subsequently, however, without notice to the applicant, several other employees who are stated to be seniors to the applicant were fitted against these posts retrospectively from 1-10-1979 and the date of promotion of the applicant was revised to 14-4-1981 by an order dated 28-5-1981. Since these orders had been passed without notice to the applicant, he filed W.P.No. 7037/82 before the High Court of AP. The High Court directed that before the date of promotion could be revised, notice should be given to the applicant. Notice was accordingly given on 25-5-1983. On receipt of the reply of the notice by the applicant, the department turned down his request through letter dated 3-6-1983. Aggrieved by these orders, the applicant once again filed W.P.No. 7554 of 1983 in the High Court of Judicature, A.P.. The WP was transferred

..3..

to this Tribunal and numbered as T.A.No.145 of 1986. This Tribunal in the said TA held that "On a perusal of the notice issued to the applicant, it is evident that no reasons have been given in regard to the seniority and as regards the pay fixation of the applicant. It does not enable the applicant to place his points of view with regard to ^{the} others whom the Railway administration are inclined to declare seniors to the Applicant. The orders passed on his representation does not give full details/reasons as to why his request cannot be complied with. The Applicant has not been given a reasonable opportunity to put forth his defence.. In the circumstances, the second respondent is directed to issue notice to the applicant explaining ^{the applicants'} his position in the seniority list so that the applicant may establish his claim with reference to the Notice; and thereafter, give him a personal hearing before passing orders on the representation of the applicant. Revised Notice should be issued within 30 days from the date of receipt of a copy of this order, and final orders after giving personal hearing, within 30 days thereafter". Thereafter, a notice dated 15-10-1986 was given to the applicant. The applicant made further representations and he was given a personal hearing on 6-2-1987. This was followed by an order dated 12-2-1987 informing the applicant that his seniority has been duly fixed. Thereupon, the applicant filed the present application. His main grievance is that in the notice dated 15-10-1986 while mentioning that

four individuals viz., D.K.Datta, K.V.Ramana Rao, M.S.Krishnamurthy and G.B.Nageshwara Rao, who are seniors to the applicant had to be given the benefit of pay fixation with effect from 1-10-1979, it was also mentioned that there are two other employees who had earlier been given the benefit of proforma promotion in the grade 425-700. It is stated that this averment in the counter affidavit filed in the High Court in W.P.no.7554/83 (TA 145/86) has not been clarified in the notice dated 15-10-1986. It is further contended that the applicant's promotion has been brought down from 28-2-1981 to 14-4-1981 which is beyond the scope of the orders of the Tribunal. The applicant, therefore, seeks a direction to suspend the order dated 12-2-1987 and to maintain status-quo as on 1-9-1986 and grant all consequential benefits as regards the seniority, promotion, pay, etc.

2. We have ^{heard} the learned counsel for the applicant and Shri P.Venkatarama Reddy, SC for Railways.

3. The respondents have not filed any counter. In the circumstances, we have proceeded to dispose of the application ~~merely~~ ^{on the basis of} on the averments made in the application and ^{after} ~~by~~ hearing both the counsel.

4. It is seen from the order no. P/EST/612/ Typists, dated 12-2-1987 and the enclosures thereof that the applicant was informed that if he has any doubt regarding the clarifications given for pay fixation he may make a representation. He was also informed that he would be given personal hearing. The main point which is raised in the present application is that it is not clear from the notice ^{as to} that who are

(20)

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the two persons to whom seniority have been given. In the absence of a counter we find it necessary to remit the case to the respondents and give a further opportunity to the applicant of being heard by the CPO. Before doing so, the applicant will give a representation seeking specific ^{points} ~~contents~~ on which he needs clarification so that ~~he will be~~ ^{The respondents may} ~~within his~~ ^{be} ~~referred to have~~ ^{be able to make} ~~points to enable~~ ^{by} ~~submit a~~ ^{representation after which} ~~thereafter~~ ^{by the respondents} the representation will be disposed of. This shall be done within a period of two months. The application is disposed of with the above directions. No costs.

(Dictated in open court)

B.N.Jayashimha
(B.N.JAYASIMHA)
VICE CHAIRMAN

D.Surya Rao
(D.SURYA RAO)
MEMBER (JUDL.)

Dt. 22nd February, 1990

SQR*

S. Sivarama Reddy
For DEPUTY REGISTRAR (J) 5/3/4

TO:

1. The General Manager, S.C.Railway, Sec'bad.
2. The Ch^m Personnel officer, S.C.Railway, Sec'bad.
3. One copy to Mr.Y.Sivarama Sastry, Advocate, 3-6-288/3,4&5, Hyderguda, Hyderabad-29.
4. One copy to Mr.P.Venkatarama Reddy, SC for Rlys., CAT, Hyderabad.
5. One spare copy.

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kj,

Subbanna Rao SP/3/40