

61

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 733/87.

Date of Decision :

-T.A.No--

T.V.G.S.V.Prasad Sarma

Petitioner.

Shri P.Krishna Reddy

Advocate for the
petitioner (s)

Versus

The Chief Personnel Officer,
South Central Railway, Secunderabad & 2 others

Respondent.

Shri N.R.Devaraj,
SC for Railways

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member (Jud1)

THE HON'BLE MR. R.Balasubramanian : Member (Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HJNM
M(J)

HRBS
M(A)

43
62

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.733/87.

Date of Judgment 2-1-91

T.V.G.S.V.Prasad Sarma .. Applicant

Versus

1. The Chief Personnel Officer,
South Central Railway,
Secunderabad.
2. The Chief Engineer,
Open Line,
South Central Railway,
Secunderabad.
3. The Chief Track
Engineer-I,
South Central Railway,
Secunderabad. .. Respondents

Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.R.Devaraj,
SC for Railways

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Jud1)

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri T.V.G.S.V.

Prasad Sarma under section 19 of the Administrative
Tribunals Act, 1985 against the Chief Personnel Officer,
South Central Railway, Secunderabad and 2 others.

2. The applicant joined the Electrical Department of the
South Central Railway on 25.11.72 as Chargeman in the grade
of Rs.425-700. Volunteers were called for the posts of

64
63

Asst. Foreman-cum-Senior Operator for Track Machines in the Civil Engineering Department. The applicant was selected and posted as Asst. Foreman/Senior Operator in the Civil Engineering Department in the grade of Rs.550-750 on 21.10.74. In 1975 he acquired the A.M.I.E. Degree. On 9.9.76 he was promoted on adhoc basis as Foreman in the grade of Rs.700-900 in the Track Machine Unit of the Civil Engineering Department. Subsequently, his promotion as Foreman in the grade of Rs.700-900 was regularised with effect from 30.6.79. Later, he got another promotion on 12.10.79 on adhoc basis as Shop Superintendent in the grade of Rs.840-1040. By an order dated 15.9.87 a new organisation called the Track Machine Organisation was formed with effect from 1.11.86. The respondents wanted to have a panel of candidates for the posts of Asst. Engineers in the Civil Engineering Department. According to the rules, $66 \frac{2}{3}\%$ of the posts are to be filled up directly through the Union Public Service Commission and out of the balance $33 \frac{1}{3}\%$ of posts 75% is required to be filled up on seniority basis while 25% will be filled up on the basis of limited departmental competitive examination. The applicant is interested in the 75% portion of this $33 \frac{1}{3}\%$ reserved for the seniority quota among the departmental candidates. The respondents however did not consider him eligible for consideration because he was treated to be in the scale of Rs.700-900 only from 1.11.86 when the Track Machine Organisation was formed.

9.3
An examination was to be conducted on 25.10.87.

Not finding success in any of his petitions to the higher authorities the applicant moved this Tribunal vide O.A. No.671/87. The Tribunal passed an order on 23.10.87 permitting him to appear for the examination to be held on 25.10.87 but that the results will be subjected to the outcome of the O.A. But before the orders of the Tribunal could be communicated the examination was held on 25.10.87. To facilitate the absentees, the respondents proposed to hold a selection on 22.11.87 and by virtue of the interim order the applicant has appeared for this and the results will be subjected to the outcome of the O.A. The applicant prays that his seniority be fixed among the staff in the Civil Engineering Department in the grade of Rs.700-900 from either 9.9.76 the date when he started officiating in the scale on adhoc basis or 30.6.79 when he was regularised in that grade.

3. The respondents opposed the application. Their main contention is that his entire service in the Track Machine of the Civil Engineering Department was only in an ex-cadre capacity and that he can be considered to belong to the Track Machine Organisation only from 1.11.86 when the organisation was formed. To safeguard the interests of the others in the ^{parent} department they have issued orders to the effect that in the case of employees promoted under the Track Machine Organisation the same will be restricted to only one grade higher than what they would have got in the parent units. In case employees who have got more than one promotion ~~and~~ are not willing to

10
65

continue in the Track Machine Organisation they were free to be repatriated to their parent department. They have also pointed out that the applicant had given a letter on 9.9.87 wherein he had expressed that he was willing to continue in the Track Machine Organisation without any condition and requested that he may be absorbed in the Track Machine Organisation in the grade to which he is eligible as per the conditions arrived at in the meeting held with the organised labour unions. As per clause 2 of the terms agreed by the organised labour unions, if an employee has been promoted in the Trach Machine Organisation the same will be restricted to only one grade higher than which he would have got in his parent department. Since the applicant has secured virtually two promotions - one on the date of joining the Track Machine Organisation and subsequently to the Rs.700-900 grade their point is that he would be treated as having entered the Rs.700-900 grade from June, 1979 but he can be considered to have entered that grade only from the date of formation of the organisation viz: 1.11.86.

4. We have examined the case and heard the learned counsels for the applicant and the respondents. In the course of the hearing the learned counsel for the applicant presented additional material papers. One such paper is the letter No.P(E)529/TM/II dated 3.10.90 of the Personnel Branch of the South Central Railway. That letter simply states that supervisory staff of the Track Machine Organisation shall be absorbed in the grades/posts to which they were selected in the Track Machine Organisation.

In the seniority list annexed to that letter they have shown the applicant at Serial No.1 and had also shown that he had been absorbed in the scale of Rs.700-900 (revised scale Rs.2000-3200) from 1.11.86 only. Another such paper is the letter No.P(E)529/TM/II dated 10.4.90 of the Personnel Branch of the South Central Railway. In that letter in the first para it is stated that it was decided to absorb the supervisory staff of the Track Machine Organisation in the grades to which they were selected in the Track Machine Organisation. The learned counsel for the applicant pointed out that there is no such stipulation in this order that the absorption would be on the basis of only one promotion in the Track Machine Organisation [redacted] and therefore contended that the applicant should get the benefit of Rs.700-900 from the date he got it regularly. We do not see much force in this argument on this basis. In para 3 it had been stated that in assigning seniority to the staff of the Track Machine Organisation, in all the grades in which they are entitled to be absorbed ^{will be} from the date the Track Machine Organisation has been formed viz: 1.11.86. We shall not go much into these because these are administrative instructions issued from time to time by the South Central Railway in consultation with the organised labour unions but the basic principle is that a person's seniority for all purposes should ^{count} come from the date he had entered a particular scale on a regular basis. ~~On the date of absorption~~

..... If the difference between an ex-cadre post and cadre post is going to be of any

To

1. The Chief Personnel Officer, S.C.Railway, Secunderabad.
2. The Chief Engineer, Open Line, S.C.Railway, Secunderabad.
3. The Chief Track Engineer-I, S.C.Railway, Secunderabad.
4. One copy to Mr.P.Krishna Reddy, Advocate. *CAT. Hyd. Bench*
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
6. One copy to Hon'ble Mr. J.Narasimha Murty, Member(J) CAT.Hyd.Bench.
7. One copy to Hon'ble Mr.R.Balasubramanian, Member(A) CAT.Hyd.Bench.
8. One spare copy.

pvm

consequence then the respondents should have applied their minds to the consequences thereof at the time of regularising a person in a particular case. In this case since the applicant had been placed in the scale of Rs.700-900 on a regular basis from 30.6.79 he is entitled to all the benefits flowing from such placement irrespective of the fact whether he was in an ex-cadre post or cadre post. We dismiss his claim for being placed in this scale from ~~9.9.9.87~~ ⁹⁻⁹⁻⁸⁶ itself because that was on adhoc basis only.

5. In view of the above, we direct the respondents to place the applicant in the scale of Rs.700-900 from 30.6.79 instead of 1.11.86. If, on this basis, he is eligible for consideration for further promotion to the Group 'B' he shall be fully entitled to that. The application is disposed of on the above lines with no order as to costs.

22
(J.Narasimha Murthy)
Member (Judl).

R.Balasubramanian
(R.Balasubramanian)
Member (Admn).

Dated

8th January 91

Deputy Registrar (Judl)