

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

O.A. NO. 457 OF 1989

DR. B.S. VENKATESWARA RAO Applicant(s)

Counsel for Applicant(s)

Versus

Respondent(s)

Counsel for Respondent(s)

Date

Orders

14.6.89.

Admit.

Heard Shri G. Raghuram, and Shri Venkatarama Reddy, learned counsel for the applicant and respondents respectively.

It is represented that-
By way of interim direction, it is ordered that ~~one post may be kept vacant~~ pursuant to the DPC meeting held during the last week of May, 1989 ~~for preparation of a panel~~ ^{for promotion} of Medical Superintendents (J.A. Grade) from the category of Divisional Medical Officers, ~~one post may be kept vacant~~ ^{has been prepared. On behalf of the applicant} ①

It is brought to our notice that O.A.No. 167/86 is pending adjudication before this Tribunal. Post the case in the first week of July, 1989 in the date fixed cases, as the decision therein would have a bearing on this case.

(D. SURYA RAO)
M(J)

(D.K. CHAKRAVORTY)
M(A)

- ① it is intended that he was illegally not considered for inclusion in the panel and that irreparable loss would be caused to him if the panel is finalized & promotion given effect to. ~~It is in the order~~ do issue direction to respondents to keep one post of Medical Superintendent vacant for being allotted to the applicant in the event of his success in the present application.

WIRE AT
PARTY'S
cost for 1st Respondent
(BO)
(DMS)
C.M.

(27)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 457/89.

Date of Decision : 20.9.1991.

~~T.A.No.~~

Dr. B.S.Venkateswara Rao Petitioner.

Shri G.Raghuram Advocate for the
petitioner (s)

Versus

Railway Board, rep. by its Chairman, Respondent.
Rail Bhavan, New Delhi & 2 others

Shri D.Gopal Rao, SC for Railways Advocate for the
Respondent (s)

CORAM :

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

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)

(28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.457/89.

Date of Judgment 20.9.1991.

Dr. B.S.Venkateswara Rao .. Applicant

Vs.

1. Railway Board,
rep. by its Chairman,
Rail Bhavan,
New Delhi.
2. General Manager,
South Eastern Railway,
Garden Reach,
Calcutta.
3. General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.

.. Respondents

Counsel for the Applicant : Shri G.Raghuram

Counsel for the Respondents : Shri D.Gopal Rao, SC for Railways

CORAM:

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

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

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

This application has been filed by Dr. B.S.Venkateswara Rao under section 19 of the Administrative Tribunals Act, 1985 against the Railway Board, rep. by its Chairman, Rail Bhavan and 2 others.

2. The applicant who was an Asst. Divl. Medical Officer (ADMO for short) in South Central Railway since 1.1.73 went on deputation to Zambia for 5 years between 27.10.80 and 27.10.85. He retained his lien in South Central Railway. On his return, by memo dated 8.11.85 of the Railway Board he was posted to South Eastern Railway still as a Asst. Divl. Medical Officer. Aggrieved, the applicant filed O.A.No.167/86. In that O.A. the prayer was:

- (a) To quash the posting order to South Eastern Railway.
- (b) To promote as Divl. Medical Officer (DMO for short) in South Central Railway in his turn.

At the time of filing this O.A., O.A.No.167/86 was still pending. The applicant joined the South Eastern Railway as ADMO on 27.1.86. Thereafter, he was promoted as DMO and transferred to Visakhapatnam in the same Railway on 25.6.87. The applicant alleges that persons junior to him had been promoted as Medical Superintendents in the Junior Administrative Grade. It is his apprehension that his case was not considered because the essential input viz: the confidential reports were not available to the Departmental Promotion Committee for the 5 year duration he was on deputation abroad. In this application he prays that his case for promotion to the Junior Administrative Grade should be considered despite the non-availability of his confidential reports during the period 1980-85 when he was on deputation abroad. He also seeks all consequential benefits including seniority, salary etc.

3. There is no counter affidavit filed in this case by the respondents. The learned counsel for the respondents Shri D.Gopal Rao has filed a memo dated 26.4.91 on behalf of the respondents. In this memo it is stated that the applicant has since been promoted to the Junior Administrative Grade w.e.f. 16.8.89 vide Railway Board order dated 14.8.89. It is stated that the applicant had been promoted to the post of DMO w.e.f. 23.10.89 vide memo dated 19.12.89 of the DCPO Hyderabad. It is also stated that he has further been promoted to the Selection Grade in the Junior Administrative Grade w.e.f. 16.9.89. The respondents therefore want that the O.A. should be treated as having become infructuous. But the learned counsel for the applicant has remarked on this communication that it has not become infructuous as promotions were not effected from the due dates as prayed for in the O.A.

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4. We have examined the case and heard the learned counsel for the applicant and the respondents. In the memo dated 26.4.91 filed by the learned counsel for the respondents it has been stated that the applicant was promoted as DMO w.e.f. 23.10.89 while he had been promoted ^{to} the higher ~~grade of~~ Junior Administrative Grade ^{earlier} with effect from ~~an~~ date 14.8.89. Obviously, there is a typographical mistake. The orders promoting him to the DMO grade were no doubt issued by the South Central Railway on 19.12.89. But it should ^{be} with effect from 23.10.82 in accordance with the judgment dated 3.10.89 delivered by this Bench in O.A.No.167/86. The short question before us is whether the applicant was treated as an officer in the senior scale (DMO) w.e.f. 23.10.82 when his promotion was considered to the Junior Administrative Grade. We have also to see whether the promotion w.e.f. 16.8.89 is from a due date and have to ensure that the applicant has not suffered for want of confidential reports for the 5 year duration he was on deputation abroad. For this purpose we have examined the Railway records.

5. From the Railway records it is seen that the date of promotion of the applicant to the Junior Administrative Grade has further been advanced from 14.8.89 to 17.3.88. In the covering letter No.E(O)III/CC/89/16 dated Nil-9-91 from the Dy. Secretary(E) to the Dy. CPO(G), S.C.Railway it is stated that the case of the applicant for promotion to the Junior Administrative Grade with reference to his juniors was examined and his promotion to the Junior Administrative Grade had been ordered w.e.f. 17.3.88. We find that this had been ordered by Wireless/Post Copy No.E(O)III-89/PM/65 dated 25.4.91. The applicant has not ^{indicated who were} ~~stated which of~~ his juniors ^{that were} ~~has been~~ promoted earlier

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to him. On the other hand, we have seen from the Railway records that his promotion to the Junior Administrative Grade which was ordered w.e.f. 14.8.89 has been advanced to 17.3.88 with reference to his juniors. Thus, we find that he had been promoted as DMO w.e.f. 23.10.82 and to the Junior Administrative Grade w.e.f. 17.3.88. We find that there is no case for our interference and we accordingly dismiss the application with no order as to costs.

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(J.Narasimha Murthy)
Member(Judl).

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

Dated 20th September 91

REGISTRAR.

Copy to:-

1. Chairman,
Railway Board, Rail Bhavan, New Delhi.
2. General Manager, South Eastern Railway, Garden Reach,
Calcutta.
3. General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
4. One Copy to Shir G. Raghuram, Advocate, H.No.1-10-13,
Ashoknagar, Hyderabad.
5. One copy to Shri. D.Gopal Rao, SC for Railways, C.A.T
Hyderabad.
6. One copy to Shri. J.Narasimha Murthy, Member (Judl)
C.A.T. Hyderabad.
7. One spare copy.

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24/9/91