

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A.No. 472/89.

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Dt. of Decision:

I.Satyana^rayana Raju & another

Petitioner

Shri P.Krishna Reddy

Advocate for
the Petitioner
(s)

Versus

Addl. Director, Pay Commission, Rail Bhavan,
Railway Board, New Delhi & 28 others Respondent.

Shri N.R.Devaraj, SC for Railways

Advocate for
the Respondent
(s)

CORAM:

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

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters 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.)

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HRBS
M(A).

HCJR
M(J).

62

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.472/89 With M8852/91 Date of Judgement 18.12.1991

1. I.Satyanarayana Raju
2. N.Surya Maddeeteety Reddy ..Applicants

Versus

1. Addl. Director,
Pay Commission,
Rail Bhavan,
Railway Board,
New Delhi.
2. General Manager(Personnel),
4th Floor, Rail Nilayam,
Secunderabad-500371.
3. B.Rama Krishna
4. S.Madhusudhanarao
5. J.Satyanarayana Prasad
6. Smt. K.Satya Sarada
7. S.A.Rama Mohan
8. Md. Asif Ali
9. Kum. S.Satya Saraswathi
10. Mohd. Suleman Pasha
11. D.Venkata Ramana
12. A.V.R.Subrahmanyam
13. G.Rageeq Ahmed
14. P.Srinivas
15. A.Narsimhulu
16. V.Bhaskar
17. S.V.S.R.K.B.Sarma
18. K.C.Bodhra
19. V.Jaya
20. B.Shankar Reddy
21. Kum. A.Sudha Rani
22. K.Raghava Rao
23. Md. Mazheenuddin
24. K.Thabeshwara
25. R.Srinivas Murthy
26. B.Srinivasaral
27. Mr. Palaniappan
28. Ab. Masjead
29. M.Ravindra

..Respondents

Counsel for the Applicants : Shri P.Krishna Reddy

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

CORAM:

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

Hon'ble Shri C.J.Roy : Member(J)

I Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)

V
This application has been filed by Shri I.Satyanarayana
Raju & another against the Asst. Director, Pay Commission,

Dige

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Rail Bhavan, Railway Board, New Delhi & 28 others under section 19 of the Administrative Tribunals Act, 1985. Respondents 3 to 29 are private respondents. The prayer is to set aside the proceedings of the 2nd respondent issued vide No.P(E)612/DOS/ADM/Seniority/Vol.I dt. 28.4.89 rejecting the representation of the 2nd applicant regarding his seniority. It further seeks a direction to the respondents to fix the seniority of the applicants at the proper place.

2. This O.A. was dismissed for default on 23.7.92. The applicants have filed M.A.No.852/92 seeking restoration. In view of the circumstances stated in the M.A., the M.A. is allowed and the O.A. is restored and we heard Shri P.Krishna Reddy for the applicants and Shri N.R.Devaraj for the respondents.

3. The applicants responded to the notification issued vide Employment Notice No.1/82 for the posts of Asst. Draftsmen and they were selected. Some of the respondents also responded to the same notification for the lower post of Tracers and they were selected. The other respondents were selected much later as Tracers in the lower category. While so, the Railway Board issued an order dt. 25.6.85 by virtue of which the respondents 3 to 29 holding diplomas were promoted as Asst. Draftsmen with retrospective effect from 1.1.84. Due to administrative reasons the applicants could be deputed for training which is of a ~~much~~ longer duration and could ~~only~~ be appointed as Asst. Draftsmen in the higher cadre ^{only} on 25.2.85 and 28.2.85. The respondents issued a seniority list dt.17.8.88 and in that list in the category of Asst. Draftsmen the respondents are shown above the applicants. It is this action that is being questioned by the applicants.

4. The official respondents oppose the application and have filed a counter. It is admitted that both the applicants were selected by the Railway Recruitment Board for the post of Asst. Draftsman. It is also admitted that due to administrative reasons they could ~~finally~~ be appointed ^{only} on 25.2.85 and 28.2.85.

It is their case that since the respondents were promoted as Asst. Draftsmen w.e.f. 1.1.84 itself, a date prior to the date of appointment of the applicants as Asst. Draftsmen, the respondents should be ranked senior in the category of Asst. Draftsmen.

5. We have examined the case and heard the rival sides. It is not in dispute that the applicants were selected for a higher Post (Asst. Draftsman) further to the notification pursuant to which some respondents were appointed as ~~Tracers~~^{They} and were also appointed as Asst. Draftsmen much before the issue of the Railway Board letter dt. 25.6.85. It was purely by virtue of the Railway Board letter dt. 25.6.85 that the respondents were deemed to have been promoted as Asst. Draftsmen retrospectively from 1.1.84. Such being the position, the question is whether the respondents can be shown senior to the applicants. On this point, the learned counsel for the respondents Shri N.R.Devaraj argued that the Railway Board letter has all the force of a Government Order and in-as-much as the respondents had been promoted from an earlier date than the applicants they should be ranked senior. In a judgement dt. 30.10.92 in O.A.No.594/90 this Bench had dealt with a somewhat similar case wherein we had held that the seniority can be regulated by the date of entry in the grade only if such promotion/appointment is done according to recruitment rules. The Bench held that the promotion envisaged by the order dt. 25.6.85 was purely fortuitous as a special dispensation when they decided to freeze the cadre of Tracers. We held that the Railway Board order was not in the nature of a formal amendment to the statutory recruitment rule since it was only a one time dispensation for freezing the cadre of Tracers. In the normal course, the respondents herein would have become Asst. Draftsmen only much later and if they were promoted retrospectively from 1.1.84 it was purely a special dispensation and not a normal promotion in accordance with the statutory recruitment rule. Moreover, ~~if the~~

if the argument of the learned counsel for the respondents is accepted it would lead to a very strange situation when ~~persons~~ people who were selected in response to the same notification as Asst. Draftsmen would rank junior to some others who also responded to the same notification, entered in a lower capacity as Tracers and subsequently became Asst. Draftsmen retrospectively and fortuitously. The argument of the learned counsel for the respondents, therefore, does not appeal to us.

6. The applicants were regularly selected as Asst. Draftsmen and were also appointed as such well before the issue of the Railway Board order. Thus, from all angles their seniority vis-a-vis the respondents is to be fully protected.

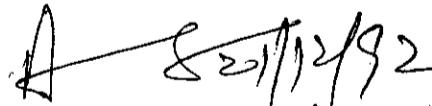
7. In view of the above, we allow the application and direct the respondents to place the applicants above all the respondents cited therein in the seniority list of Asst. Draftsmen. The application is allowed accordingly with no order as to costs.

R.Balasubramanian

(R.Balasubramanian)
Member(A).

Wstry
(C.J.Roy)
Member(J).

2
Dated: 18th December, 1992.


Deputy Registrar(J)

To

1. The Additional Director,
PayCommission, Rail Bhavan, Railway Board, New Delhi.
2. The General Manager(Personnel), 4th Floor,
Railnilayam, Secunderabad-371.
3. One copy to Mr.P.Krishna Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One spare copy.

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Swaminarayana
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