

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 525/89.

Date of Decision:

~~Exhibit No. 1~~

N.D. Muzumdar

Petitioner.

Shri Srinivasa Murthy for Shri V. Rama Rao

Advocate for
the Petitioner(s)

Versus

Sr. Divl. Personnel Officer, Vijaywada Division, Respondent.
S.C.Rly., Vijaywada (Krishna Dt.) & 3 others

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.)

No

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HRBS
M(A).

HCJR
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No. 525/89.

Date of Judgement 22nd July 1992.

N.D.Muzumdar

.. Applicant

Vs.

1. Sr. Divl. Personnel Officer,
Vijaywada Division, S.C.Rly.,
Vijaywada (Krishna Dt.).
2. Divl. Rly. Manager, S.C.Rly.,
Vijaywada (Krishna Dt.).
3. General Manager, S.C.Rly.,
Rail Nilayam, Secunderabad.
4. M.D.Basha, Guard, Stationed .. Respondents
at Rajahmundry E.S.D.E.

Counsel for the Applicant :: Shri Srinivasa Murthy for
Shri V.Rama Rao

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

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) I

This application has been filed by Shri N.D.Muzumdar under section 19 of the Administrative Tribunals Act, 1985 against the Sr. Divl. Personnel Officer, Vijaywada Division, S.C.Rly., Vijaywada (Krishna Dt.) and 3 others. Shri M.D.Basha, Respondent No.4 is a private respondent. The prayer in this application is to treat the proceedings No.B/P.535/VI/7/Vol.V dt. 28.9.88 and the proceedings No.B/P.524/VI/1/Vol.II dt. 30.3.89 as arbitrary and illegal and to place the applicant senior to the 4th respondent.

2. The applicant joined the Railways as Under Guard in February, 1953. Later, he was promoted as Guard 'C', Guard 'B', Guard 'A' and also as Mail Guard. In all the seniority lists of Goods Guards i.e., 'C' and 'B' the applicant has been shown above Respondent No.4. It is stated that the applicant does not know for certain his position in the grade of Guard 'A' v/s Respondent No.4. He has all the time been under the

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that he is senior to Respondent No.4. But ignoring his seniority the 4th respondent was promoted as Mail Guard on 28.9.88 vide the impugned proceedings. Not finding a favourable response to his representation the applicant filed O.A.No.801/88. The application was dismissed as premature since the applicant had not exhausted all the departmental remedies available to him. After complying with this requirement and after being dissatisfied with the disposal of the representation the applicant has now approached this Tribunal with the above prayer.

3. The respondents have filed a counter affidavit and oppose the application. In page 3 of the counter they have given a comparative statement of promotions to various levels, between the applicant and Respondent No.4. It is admitted that on 17.8.78 a seniority list in the grade of Guard 'C' was published and in that the applicant was shown senior to Respondent No.4. However, in compliance with the judgement dt. 12.3.82 in O.S.No.830/79 issued by the I Addl. District Munsiff, Rajahmundry, the seniority list was revised and Respondent No.4 was shown much above the applicant. Subsequently, the Railway Administration preferred an appeal which was transferred to this Tribunal as T.A.No.23/89. It is contended that the applicant did not implead himself and cannot claim any relief on that score. It is also their ^{case} ~~claim~~ that a seniority list in the grade of Guard 'A' was published in the year 1985 and the name of the applicant was shown below Respondent No.4. It is their case that the applicant did not choose to represent against this. As ^{for} ~~per~~ the fixation of ~~his~~ pay of the applicant on par with the juniors, it is ^{for} ~~advance~~ stated that his juniors were all given one/increment for the loyalty shown by them in the 1974 strike whereas such an increment was not given to the applicant who participated in the strike. As a result of this, the pay fixation of the juniors in the same grade was higher than that of the applicant.

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4. The applicant has prayed:

(a) that he be promoted as Mail Guard after declaring the proceedings No.B/P.535/VI/7/Vol.V dt. 28.9.88 illegal, and
(b) to declare the proceedings No.B/P.524/VI/1/Vol.II dt. 30.3.89 illegal, thereby fixing his pay on par with his juniors and also to fix his seniority above Respondent No.4.

Respondent No.4 was promoted as Mail Guard vide order dt. 28.9.88 which the applicant challenges. It is seen from the statement comparing the applicant and Respondent No.4 (page 3 of the counter) that while the applicant was ahead of Respondent No.4 in the cadres of Guard 'C' and 'B', he was placed below Respondent No.4 in the cadre of Guard 'A'. Therefore, while the Respondent No.4 was further promoted as Mail Guard on 1.11.88 itself, the applicant was promoted as Mail Guard only on 15.12.89. Respondent No.4 overtaking the applicant in the cadre of Guard 'A' was a sequel to the decision of the I Addl. District Munsiff, Rajahmundry. But, in the appeal that was decided by this Bench vide its order dt. 16.3.90 in T.A.No.23/89, the decision of the Rajahmundry Court was set aside. It is contended in the counter that the applicant was not a party to the decision in T.A.No.23/89. The failure of the applicant to represent against the provisional seniority list where Respondent No.4 was shown senior to him, is another contention of the respondents for justifying their action. However, at the time of hearing, Shri N.R.Devaraj, learned counsel for the respondents categorically informed the Bench that the Railways had already taken a decision to recast the seniority in pursuance of the direction of this Bench in T.A.No.23/89. This would restore the position of the applicant vis-a-vis Respondent No.4. There was no opposition to this move from the learned counsel for the applicant. In view of the assurance on behalf of the Railways, we do not consider it necessary to go into the ~~xxxx~~ question of seniority. We, however, direct the respondents to revise the dates of promotion of the applicant.

at various levels in accordance with the revised seniority list(s). This shall be complied with within four months of receipt of this order.

5. Regarding the stepping up of his pay on par with his juniors, it is contended by the Railways that this was due to the juniors drawing higher pay even before the revision of pay scales or promotion by virtue of an increment granted to them for their loyalty ⁱⁿ and not participating in the 1974 strike. Such being the position, the applicant cannot now expect this to be undone. We do not want to interfere with this aspect since the pay fixation is in accordance with the rules.

6. We dispose of the application as above with no order as to costs.

R. Balasubramanian
(R. Balasubramanian)
Member(A).

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

2.2
Dated: 22 July, 1992.

824/7/92
Deputy Registrar (Judl.)

Copy to:-

1. Senior Divisional Personnel Officer, Vijayawada Division, S.C.Rly, Vijayawada (Krishna District).
2. Divisional Railway Manager, S.C.Railway, Vijayawada, (Krishna District).
3. General Manager, S.C.Railway, Rail Nilayam, Sec-bad.
4. One copy to Sri. V. Rama Rao, advocate, 3-6-779, 14th street, Himayatnagar, Hyd-bad -29.
5. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
6. One ~~xx~~ spare copy.
7. One copy to Sri. N.R. Deva Rao, Sec to Rlys.
8. One copy to D.R (J)

Rsm/-

(5)

O.A. 525789

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER (J)

Dated: 22-7-1992

ORDER / JUDGMENT

P.A./C.A./M.A. No.

O.A. No.

525789

T.A. No.

(W.P. No.)

Admitted and interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

P.V.M.

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7/92

