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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT

HYDERABAD

TRANSFERRED/ORIGINAL APPLICATION NO. 591 of 1989.

DATE OF ORDER: 16.2.1990.

BETWEEN:

SMT. R.SAI KUMARI & 5 OTHERS

APPLICANT(S)

THE GENERAL MANAGER,  
SOUTH CENTRAL RAILWAY,  
SECUNDERABAD & 3 OTHERS

RESPONDENT(S)

FOR APPLICANT(S): SHRI P.KRISHNA REDDY, ADVOCATE

FOR RESPONDENT(S): SHRI P.V.REDDY, S. e. for Railways.  
No. 1 to 3 :

FOR RESPONDENT No.4: Not appeared in person or by Advocate.

CORAM: HON'BLE SHRI R.BALASUBRAMANIAN, MEMBER (ADMN)

1. Whether Reporters of local papers may be allowed to see the Judgment?
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 Bench 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).

JUDGMENT OF THE SINGLE MEMBER BENCH DELIVERED BY THE  
HON'BLE SHRI R.BALASUBRAMANIAN, MEMBER (ADMN).

This is an application filed under section 19 of the Administrative Tribunals Act, 1985 by Smt. R.Sai Kumari and 5 others against the General Manager, South Central Railway and 3 others, regarding stepping up of pay on par with a junior promoted.

2. The applicants were appointed as Junior Clerks between 27.6.1977 and 3.12.1979. The respondent 4 (Shri K.Krishna) was appointed later. The respondent 4 was promoted as Senior Clerk at Mahaboobabad on 6.2.1981 and his service in the grade of Senior Clerk was regularised on 20.8.1986 along with the applicants. The applicants did not realise that they were senior to the respondent 4 till the seniority list was published on 13.3.1985 from which they found out that they were senior to the respondent 4. The applicants state that they preferred an appeal on 7.5.1985 to the 2nd respondent stating that the respondent 4 being junior to them, they should have been promoted earlier to him. They state that they followed it up with a reminder dated 13.4.1987. The 2nd respondent vide his letter dated 15.9.1987 did not accede to the request. Thereupon, the applicants filed an appeal on 3.11.1987 to the 1st respondent and vide his reply dated 2.5.1989 the 1st respondent also rejected the request on the ground that the promotion of the 4th respondent as Senior Clerk was initially adhoc and later he was regularised in accordance with the rules. The applicants contend that they ought to have been considered for promotion to the post of Senior Clerk even on adhoc basis before the 4th respondent. They

point out that this is not a fortuitous promotion in that the 4th respondent continued in the said post for nearly six years and as a result, the pay fixed for the respondent 4 on the date of regularisation was more than that of the applicants. It is, therefore, prayed that their pay should be stepped-up on par with that the respondent 4, their junior, by granting proforma fixation from 6.2.1981 and to pay arrears from 20.8.1986.

3. The application has been opposed by the respondents. It is stated that on the occurrence of the vacancy of Senior Clerk in the PWI's office, orders were issued on 29.11.1980 posting Shri M.Narayan Rao, Senior Clerk in the PWI's office, Kazipet. Since Shri M.Narayan Rao did not move and take over, they promoted the 4th respondent purely on adhoc basis as a local arrangement with effect from 6.2.1981 as Senior Clerk. At the time of adhoc promotion they had specifically indicated that the promotion was purely adhoc and in the exigencies of service and would not confer any prescriptive rights for continuance, seniority etc. This arrangement continued and eventually he was also selected on a regular basis alongwith the applicants. They maintain that the 4th respondent has not gained anything in terms of seniority. They denied having received any representation from the applicants on 7.5.1985. They received a representation for the first time only on 14.4.1987. They point out that the various orders quoted by the applicants all relate to pay fixation while implementing Pay Commission recommendation and the applicants are not entitled to any stepping up of pay, in the instant case.

4. I have studied the case and also heard the learned counsels for the applicants and the respondents 1 to 3. It is seen from the reply dated 2.5.1989 of the General Manager, South Central Railway that no seniority list was published between 1980 and 1985. The adhoc promotion

of the 4th respondent was from 6.2.1981 did not alert the applicants who did not have an occasion to know that they were senior to the 4th respondent. They realised this only when they saw the gradation list published on 13.3.1985. In the same letter the General Manager has also explained to the union as to how the adhoc arrangements continued for a long time due to administrative exigencies.

5. The question to be settled is whether the applicants are entitled to stepping up of pay on par with the 4th respondent. The 4th respondent's pay in the scale of Senior Clerk has been fixed taking into account the unbroken spell of adhoc service. The various circulars quoted by the applicants are all relating to fixation of pay in the scales revised consequent to Government's decision on Pay Commission recommendation. Acceptance of Pay Commission recommendation resulted in certain anomalies such as seniors promoted before a certain date being fixed at a stage of pay scale lower than juniors who were promoted after a certain date. The Government have issued a series of instructions to overcome these anomalies. These cannot be applied to cases where pay fixation is done taking into account earlier officiating arrangements. Such cases are not treated as anomalies. In the instant case, the 4th respondent had a long spell of adhoc service and as a result, his pay was fixed in the higher scale. The applicants cannot claim parity with him in the pay because they did not have any adhoc service in the higher scale before they were appointed regularly.

6. The complication has arisen because the Railway Administration failed to follow the normal procedure in making adhoc arrangements. According to the Railway

To:

1. The General Manager, south central railway, Sec'bad.
2. The Divisional Railway Manager, (Broad Guage) south central railway, Sec'bad.
3. The Senior Divisional Engineer, (Broad Guage), south central railway, Sec'bad.
4. One copy to Mr.P.Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad.
5. One copy to Mr.P.Venkatarama Reddy SC for Railways, CAT, Hyderabad for RR 1 to 3 only.
6. ~~XXXXXXXXXXXXXX~~ One copy to Hon'ble Mr.R.Balasubramanian, Member:(A), CAT, Hyderabad.
7. One spare copy.

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Board's Circular No.E(NG)1-73 PM1/222 dated 23.2.1974 (page 19 of the material papers) the seniormost person available in the unit should normally be promoted in the adhoc arrangements unless the authority ordering the promotion considers that person unsuitable or there will be dislocation in his work. The respondents in the instant case have not followed this but in the first stage shifted Shri M.Narayan Rao who was already a Senior Clerk at Kazipet. There is nothing wrong in this. But when Shri M.Narayan Rao did not report the respondents should have assessed the period for which such adhoc arrangement would be necessary and should have attempted to post the seniormost person. They have also indicated in the same circular that normally adhoc promotion should not last more than three months and in this case the adhoc arrangement continued for nearly six years. I fail to see any justification for this flagrant violation of the orders of the Board.

7. Since there is no provision in the rules and since the career prospects of the applicants have not been adversely affected by the long adhoc arrangement of the 4th respondent, I do not consider it a case for intervention. In the circumstances the application fails and it is accordingly dismissed. There will be no order as to costs.

R.Balasubramanian

( R.BALASUBRAMANIAN )  
Member (Admn).

Dated

16 - 2 - 1990

J. Venkateswaran  
DEPUTY REGISTRAR (J)  
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20/2/90~~

Draft by: Checked by: Approved by:  
D.R.(J)

Typed by: Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH.

HON'BLE MR. B. N. JAYASIMHA: (V.C.)

A N D

HON'BLE MR. D. SURYA RAO: MEMBER (JUDG.)

A N D

HON'BLE MR. J. NARASIMHA MURTHY: (M) (J)

A N D

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

DATED: 16.2.90

ORDER/JUDGMENT:

M.A./R.A./C.R./No. 20

T.A. No. (U.P. No. )

Dec. No. 594/89

Admitted and interim directions issued.

Allowed.

Dismissed.

Decided of with direction.

Not Ordered.

No order as to costs.

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