

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 656/89.

DATE OF DECISION: - - - - -

T.A. No. - - -

Between:-

G. Mallikarjuna Rao - - - - - Petitioner(s)  
 Shri S. Surya Prakash Rao, - - - - - Advocate for the  
 Advocate - - - - - petitioner(s)

Versus

The Commissioner of Railway Safety,  
 South Central Circle, Secunderabad - - - - - Respondent.

& another

Shri N. R. Devaraj, - - - - - Advocate for the  
 SC for Railways - - - - - Respondent(s)

COURT:

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 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 Benches of the Tribunals ?
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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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.656/89.

Date of Judgment: 17.7.90

G.Mallikarjuna Rao

.. Applicant

Versus

The Commissioner of  
Railway Safety,  
South Central Circle,  
Secunderabad  
& another

.. Respondents

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Counsel for the Applicant : Shri S.Surya Prakash Rao,  
Advocate.

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

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CORAM:

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

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

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

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This is a application filed by Shri G.Mallikarjuna Rao under section 19 of the Administrative Tribunals Act against the Commissioner of Railway Safety, South Central Circle, Secunderabad and another.

2. At the relevant point of time the applicant was working as a Sr. Stenographer in the Personnel Branch of General Manager's Office, South Central Railway, Secunderabad.

3. In response to a circular dated 14.10.87 inviting applications for appointment to the post of

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Stenographer (Personal Assistant) in the scale of pay of Rs.1400-40-1800-EB-50-2300 he applied. He was selected and by an order dated 24.11.87 issued by the Personnel Branch of South Central Railway he was transferred on deputation to the Office of the Commissioner of Railway Safety. By an order dated 25.11.87 the Commissioner of Railway Safety appointed him on deputation w.e.f. 25.11.87 on probation initially for a period of two years in the same scale of pay. By an order dated 1.3.88 he was promoted to the scale of pay of Rs.2000-3200. The applicant alleges that all of a sudden by an order dated 2.3.89 he was reverted to the old scale of pay of Rs.1400-2300. He had filed a separate application before this Tribunal vide O.A.No.978/89. He had exercised his option to be absorbed in the Railway Safety organisation. In spite of this, by an order dated 8.5.89 the applicant was reverted back to the parent department viz: South Central Railway. The applicant is aggrieved and has prayed that the order dated 8.5.89 by which he was repatriated be set aside.

4. The respondents have opposed the prayer. It is their case that the transfer was on deputation and that since he was on probation there is no need to give any notice before repatriating him.

5. We have examined the case and heard the learned counsels for both the applicant and the respondents. We find that the order dated 24.11.87 issued by the

Personnel Branch of South Central Railway is quite clear.

stating that the transfer is on deputation basis. The order dated 25.11.87 issued by the Commissioner of Railway Safety has brought in an element of confusion stating that the appointment is on probation initially for two years. The subsequent promotion order dated 1.3.88 also stipulates the condition that in view of the promotion the applicant would not be eligible for the grant of deputation allowance. This creates an impression that with this promotion the deputation had been terminated and that the promotion is on a regular basis. In the same para they have also stated that it would not entitle him to any claim for out of turn promotion in his parent department viz: South Central Railway. If he has been absorbed in the Railway Safety organisation, where was the need to stipulate the condition that he was not entitled to any claim for out of turn promotion? From this it is seen that his lien in the parent department still continued. The order dated 8.5.89 by which he was repatriated before the expiry of two year period is also difficult to understand. In the course of the hearing the learned counsel for the respondents informed that it was on account of unsatisfactory performance. The respondents are confused. [REDACTED]

6. In their reply the respondents have stated that since the applicant was on probation there is no need to inform him or give any reasons for his repatriation to the parent department. However, while replying hi-

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on 16.8.89 they have clearly stated that he was on deputation basis only. From the above it is seen that the thinking on the part of the respondents is confused. By now it is clear that the applicant was only on deputation with the Railway Safety organisation.

7. The next question is whether his repatriation before the expiry of two years for which he was initially deputed is in order. We have seen his confidential reports for this period and do not find any indication that his performance during this period was unsatisfactory. Therefore the action of the respondents in having repatriated him before the expiry of two years is illegal. The repatriation order dated 8.5.89 of the respondents is therefore struck down.

8. The applicant who was already promoted to the scale of pay of Rs.2000-3200 already stood reverted from 2.3.89. We have dismissed the other O.A.No.978/89 on this subject. The applicant was due to complete the two year deputation only on 24.11.89. Against this he had been repatriated in May, 1989 itself. Since we had struck down the order of repatriation dated 8.5.89 as illegal, for the period <sup>8-5-89 to</sup> ~~upto~~ 24.11.89 the applicant should be deemed to have been on deputation with the Railway Safety organisation. During this interregnum between his repatriation and 24.11.89 he shall be in the scale of pay of Rs.1400-2300 with deputation and other allowances he was otherwise entitled to.

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9. The application thus succeeds with the directions given in para 8 above. There is no order as to costs.

MS

( J.Narasimha Murthy )  
Member (Judl).

R.Balasubramanian  
( R.Balasubramanian )

Member (Admn).

Dated

17<sup>th</sup> July '90

9/8/90  
For DEPUTY REGISTRAR (JUDL)

To

1. The Commissioner of Railway Safety,  
South Central Circle,  
Secunderabad.
2. The General Manager (Personnel),  
S.C.Railway, Railnilayam,  
Secunderabad.
3. One copy to Mr.S.Surya Prakash Rao, Advocate,  
1-9-485/15/B, Lalitanagar Lecturers' Colony,  
vidyanagar, Hyderabad-44
4. One copy to Mr. N.R.Devraj, SC for Rlys CAT.Hyd.Bench.
5. One copy to Mr.J.Narasimha Murty, Member (J) CAT.Hyd.Bench.
6. One spare copy.

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