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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA 819/89.

Dt. of Order:29-7-93.

1. I.Suryanarayana Murthy
2. Niranjan Padhi
3. K.Pattabhiramaiah

...Applicants

Vs.

1. Sr.Divisional Commercial Supdt.,
South Central Railway, Vijayawada.
2. Sr.Divisional Personnel Officer,
SC Railway, Vijayawada.
3. Chief Personnel Officer, SC Railway,
Rail Nilayam, Secunderabad.
4. General Manager, SC Rlys, Rail
Nilayam, Sec'bad.

...Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.R.Devraj, SC for R

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CORAM:

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

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

(Order of the Divn. Bench passed by Hon'ble
Shri A.B.Gorthi, Member (A)).

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Aggrieved by the seniority position reflected in
the impugned seniority list dt.5-11-87, all the three
applicants here-in prayed that their seniority be fixed
at the proper place below Sri S.S.Mastan Babu and grant
them all consequential benefits.

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2. The applicants joined service during 1976--78. In 1983 applications were called to fill-up the posts of Commercial Apprentices in the scale of Rs.425--640 from the eligible class-III staff of Commercial Department who are graduates and who are not over 40 years of age. The applicants applied for the post of Commercial Apprentices and having qualified in the subsequently held written test and viva-voce were empanelled as Commercial Apprentices vide Divisional Railway Manager letter No.B/P 563/I/1-Acis/Vol.3 dt.8-10-84. They were sent for training to the Zonal Training School, Moulali for two months after which they were sent back to the Division for the rest of the Training in the duties of Commercial Inspector/Commercial Clerk. After having been declared successful at the end of training, they were absorbed ~~as Commercial Clerk~~ ² ~~Inspector~~ in the grade Rs.455--700 in the category of Commercial Inspector/Commercial ^{clerk} ~~Apprentice~~ for which grade the scale is Rs.455--700.

3. As a result of implementation of recommendation of IV Pay Commission, the scales of pay of Rs.425--640 and Rs.455--700 were merged into one scale, i.e., Rs.1400--2300. The Respondents in fixing the inter-se seniority of the applicants should have placed the applicants just below those Commercial Clerks/Commercial Inspectors, who were already in the grade of Rs.455--700

as on the date when the applicants were promoted to that grade. ^{Instead of} ~~By~~ doing so, the Respondents improperly and illegally fixed the scale of pay of applicants at Rs.1400-2300 and placed the applicants below ~~of~~ other officials ^{who} became entitled to the revised scale of Rs.1400-2300 w.e.f. a date prior to ^{the} date when the said scale was granted to the applicants.

4. The Respondents refuted the contentions ⁱⁿ ~~of~~ the application. In the counter affidavit, it has been stated that the applicants when selected for training as Commercial Apprentices were to be in the scale of Rs.425--440. By the time they completed their training of two years, the new pay scale of Rs.1400--2300 came into existence replacing the earlier scales of Rs.425--640 and Rs.455--700 . Consequently the applicants were to be in the revised scales of Rs.1400-2300 with effect from the date on which they entered the grade. The said dates as can be seen from Column-8 of impugned seniority list are 13-11-86 in respect of applicant No.1, 20-11-86 in respect of applicant No.2 and 15-11-86 in respect of applicant No.3. The contention of the Respondents is that the three applicants were neither in the scale of Rs.425--640 nor in the scale of Rs.455--700 at any time during their training period or on conclusion thereof. The Respondents categorically denied that the applicants were to be in the scale of Rs.455--700 on the conclusion

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of their training. Averment to the contrary in the application is factually not correct.

5. We have heard Shri G.V.Subba Rao, learned counsel for the applicants and Shri N.R.Devraj, learned standing counsel for Railways. Shri Subba Rao, counsel for the applicants contends that ~~as~~ the Respondents assured, as can be seen from the Railway Board letter No.E/NG/II/72/RRII/18 dt.18-3-72 that 10% vacancies of Commercial Inspectors in the scale of Rs.455--700 would be filled-up by Commercial Apprentices selected from amongst Class-III staff of Commercial Department. The Respondents thus assured the applicants that on completion of Training as Commercial Inspector they would be placed in the scale of Rs.455--700. Accordingly on completion of their training, the applicants should have been placed in the seniority list just below those Commercial Inspectors who were already in the scale of Rs.455--700 on the date ~~immediately~~ ^{prior} to the date when the applicants completed their training and were posted as Commercial Clerks/Commercial Inspectors.

6. In reply to the arguments advanced by the applicants' counsel, Shri N.R.Devraj, learned standing counsel for the Respondents has clarified that the Commercial Apprentices were not given the scale of Rs.425--640 as alleged by the applicants but they were

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actually put in the scale of Rs.425--440. They were in that scale till the completion of period of training. By the time their training completed the revised new scales of Rs.1400--2300 came into existence.

Admittedly the said scales replaced both the scales of Rs.425--640 and Rs.455--700. Although the applicants were to be placed in the scale of Rs.455--700 on ~~con~~ conclusion of their period of training in terms of Railway Board's letter dt.18-3-72, the fact remains that as regards the case of the applicants is concerned by the time they concluded their training the scale of Rs.455--700 was no longer in existence, having been replaced by the revised scale of Rs.1400--2300. The Respondents therefore correctly granted the revised scale of pay to the applicants as soon as they were appointed to the post of Commercial Clerk/Commercial Inspector.

As per extant rules governing seniority, it is to be fixed ^{with reference to} ~~to~~ the date of entry into the grade. Consequently the applicants' seniority has been fixed with reference to the date of entry to the grade of Commercial Clerk/Commercial Inspector in the scale of pay of Rs.1400--2300.

In view of the clarifications rendered in the counter by the Respondents, we are satisfied that the seniority

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of the applicants has been correctly fixed and that no such irregularity or illegality has been established as would ^{with} warrant our interference ~~in~~ the impugned seniority list. The application is therefore dismissed without any order as to costs.

(T.CHANDRASEKHAR REDDY)
Member (J)

(A.B.GORTHY)
Member (A)

Dated: 29th July, 1993.
Dictated in Open Court.

Deputy Registrar (J)

To avl/
To

1. The Sr.Divisional Commercial Superintendent.,
S.C.Railway, Vijayawada.
2. The se.Divisional Personnel Officer,
S.C.Rly, Vijayawada.
3. The Chief Personnel Officer, S.C.Rly,
Railnilayam, Secunderabad.
4. The General Manager, S.C.Rlys, Railnilayam, Secunderabad.
5. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys. CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm

6 Aug 1993
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