

ANNEXURE-I

Form of Index

List of papers in ORIGINAL APPLICATION 882/89

Sl.No. of papers.	Date of paper or Date of filing	Description of papers
<p>①</p> <p>A</p> <p>5/1/99</p>	22-3-90	<u>PART-I</u>
	8-12-89	Original Judgement
	6-11-89	Interim order.
	22-12-89	Original application and Material papers
	—	Counter
	—	Reply counter
	6-11-89	<u>PART-II</u>
	6-11-89	Copy of O.A.
	22-12-89	Copies of material papers.
	—	Copy of counter
	22-3-90	Copy of Reply counter.
	6-11-89	Copy of Judgement.
	8-12-89	<u>PART-III</u>
		Vakalatnama
		Memo
		Notice.

Part-II and Part-III Destroyed.

9/5/99

To

1. The General Manager (Union of India), South Central Railway, Railnilayam, Secunderabad.
2. Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
3. Divisional Railway Manager, Metre Gauge, Secunderabad.
4. One copy to Mr.M.Kishan, O/o. Divisional Controller of Stores, MG(Hyd), Secunderabad.
5. One copy to Mr.G.Ramachandra Rao, Advocate, 3-4-498, Barkatpura Chaman, Hyderabad-500007.
6. One copy to Mr.N.R.Devarej, SC for Rlys, CAT, Hyderabad.
7. One spare copy.

2-1-8-69
14/2/89

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

D.A.No.882/89.

Date of Order:8-12-89.
(Interim order)

S.Venkateswara Rao

...Applicant

Versus

The General Manager,
South Central Railway,
Secunderabad & 3 others.

...Respondents

Counsel for the Applicant : Shri G.Ramachandra Rao, ^{ADVOCATE}

Counsel for the Respondents : Shri N.R.Devaraj, ^{S.C. FOR RAILWAYS}

CORAM:

HONOURABLE SHRI D.SURYA RAO : MEMBER (JUDL) (I)

HONOURABLE SHRI R.BALA SUBRAMANIAN : MEMBER (A)

(Interim orders dictated by Hon'ble Shri
D.Surya Rao, Member (J)).

In this case the applicant herein is claiming seniority over the 4th respondents in the category of Tailor. The matter has been posted for Final Hearing to-day. The respondents counsel requested for further time for filing counter. Three weeks time is granted to enable the respondents to file counter.

2. In the meanwhile it is represented by the learned counsel for the applicant Shri G.Ramachandra Rao that the 4th respondent called for a trade test for promotion to Highly Skilled Grade-II Tailor by a memo dated 2-11-89 issued by the S.C.Railway, Senior Divisional Personnel Officer (MG),/Secunderabad. By way of interim directions it ordered that the applicant also should be called for a trade test along with the 4th respondent. The results of the said trade test however shall not be announced till the disposal of the main case. Post the main case at the top of the list after three weeks.

(D.SURYA RAO)
Member (J)

(R.BALA SUBRAMANIAN)
Member (A)

Dt.8th December, 1989.

11/12
Draft by: Checked by: Approved by
D.R. (7)

Typed by: Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

To be posted after 3 weeks
at the top of the case.

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

AND

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

AND

HON'BLE MR. D. K. CHAKRAVORTY: MEMBER: (A)

AND

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

DATED: 8.12.89

ORDER/JUDGMENT

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

IN

T.A.No.

(W.P.No.)

O.A.No.

882/89

Admitted and Interim directions
issued.

Allowed.

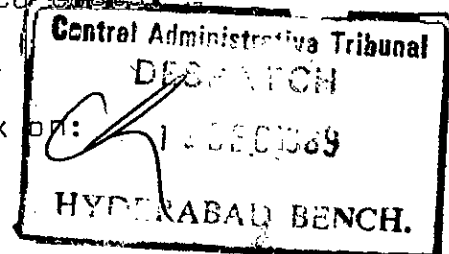
Dismissed.

Disposed of with direction.

M.A. Ordered.

No order as to costs.

Sent to Xerox on:



11/12

Pre-delivery judgment in O.A.No.882/88
prepared by Hon'ble Shri R.Balasubramanian,
Member(Admn) for concurrence.

To
Hon'ble Shri D.Surya Rao,
Member(Judl).

L.S
14/3/90

*I agree - Pre-judgment
Post...
20/3*

D BE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

~~TRANSFERRED~~/ORIGINAL APPLICATION NO. 882/88

DATE OF ORDER:

22-3-99

BETWEEN:

S.Venkateswara Rao

APPLICANT(S)

A N D

The General Manager,
South Central Railway,
Secunderabad
& 3 others

RESPONDENT(S)

FOR APPLICANT(S): Shri G.Ramachandra Rao, Advocate

FOR RESPONDENT(S): Shri N.R.Devaraj, SC for Railways

CORAM:

HON'BLE SHRI D.SURYA RAO : MEMBER (JUDL)

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)

NO

HDSR
M(J)

HRBS
M(A)

51

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.882/89.

Date of Judgment 22.3.1990

S.Venkateswara Rao

... Applicant

Versus

The General Manager,
South Central Railway,
Secunderabad
& 3 others

... Respondents

COUNSEL FOR THE APPLICANT : Shri G.Ramachandra Rao,
Advocate.

COUNSEL FOR THE RESPONDENTS: Shri N.R.Devaraj,
SC for Railways.

CORAM:


HON'BLE SHRI D.SURYA RAO : MEMBER (JUDL)

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

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

This application under section 19 of the
Administrative Tribunals Act has been filed by
Shri S.Venkateswara Rao against the General Manager,
South Central Railway, Secunderabad and 3 others.
R4 is a private respondent.

2. The applicant along with 25 other candidates
appeared for a test on 13.6.79 in pursuance of a
notification dated 8.6.79. The applicant secured
the highest marks in the test and was placed at S.No.1
in the final list of successful candidates containing
6 names. In the said list the 4th respondent was shown



17/11/89

at S.No.2. The applicant was appointed as a casual labour (tailor) with effect from 2.7.79 @ Rs.10=50 per day.

After completion of 120 days of continuous service as casual labour the applicant attained temporary status and vide proceedings dated 20.3.80 of the 3rd respondent the applicant was brought on to the monthly scales of pay of Rs.260-400 with effect from 30.10.79. The applicant's services were later regularised with effect from 1.3.84.

3. On 17.3.89 the respondents published a provisional seniority list of tailors in the Hyderabad Metre Gauge Division as on 1.3.89. In the said list the applicant was shown at S.No.2 whereas the 4th respondent was shown at S.No.1. The applicant represented against this on 27.3.89 and this was rejected by the respondents on 1.6.89. Thereupon the applicant made a further representation on 15.6.89 and this was also rejected by the respondents on 20.9.89 stating that the 4th respondent was shown senior to him on the ground that his services were regularised earlier than the applicant.

4. The applicant also states that in the Secunderabad Broad Gauge Division seniority had been assigned in the order of merit and not on the basis of date of absorption.

5. The applicant prays that he be treated as senior to the 4th respondent, in the category of tailors with all consequential benefits including promotion to the highly skilled Grade II posts of tailors.

Rs.

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6. The prayer has been opposed by the respondents. Out of the list of 6 successful candidates, they appointed 5 including the applicant and R4 as casual labours (tailors) @ Rs.10=50 per day with effect from 2.7.79. On completion of 120 days of continuous service as casual labour all were brought on to the monthly scales of pay with effect from 30.10.79 with the exception of R4 who was placed in the monthly scales of pay with effect from 24.6.79 since he was in continuous service as casual labour (tailor) from 24.2.79 itself and had completed 120 days earlier than the others. It was on this basis that R4 was also regularised earlier than the applicant. It was due to these facts that R4 was given higher seniority over the applicant. It is their point that although the applicant secured more marks than R4, the past service as casual labour albeit at the lower rate of Rs.8=65 per day could not be ignored ^{more so} ~~when~~ ^{when} he was also ~~found~~ successful in the same test as the applicant. It is their point that for reckoning seniority the date of entry into the grade is the criterion and R4 having been absorbed earlier than the applicant was treated as senior. Such a situation as this not having arisen in the Broad Gauge Division, they deny adopting different standards for different divisions.

7. The question before us is whether the relative seniority between the applicant and R4 has been done correctly in accordance with the rules. The admitted facts are that R4 had been a casual labour (tailor)

Lib

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much earlier than the applicant. He had been working as casual labour @ Rs.8=65 per day. However, in the wake of the test he was placed on a daily rate of Rs.10=50 along with the applicant with effect from the same date namely 2.7.79. It is also a fact that R4 completed 120 days casual service before even the entry into casual service of the applicant. The learned counsel for the applicant contended that the criterion for reckoning seniority should be the date of attaining temporary status and not the date of regularisation. He referred to para 2511 of the Indian Railway Establishment Manual in support of this. He had also mentioned that this view had been upheld by the Supreme Court. He also emphasised that the two different rates of payment namely Rs.8=65 and Rs.10=50 per day amounted to different scales or grades of casual labour and contended that R4 also should be deemed to be a casual labour in the grade of Rs.10=50 per day only with effect from 2.7.79 along with the applicant. In that case the applicant having secured higher marks than R4, should be senior to him. The learned counsel for the applicant made one more point in support of his argument that the daily rates of Rs.8=65 and Rs.10=50 constituted different grades. In the case of former the casual labour (tailor) was required only to check the measurements of uniforms stitched by someone whereas in the case of the latter they were required to cut the cloth and stitch the uniforms entailing greater responsibilities and thereby

Rid


msl

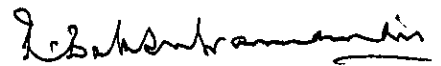
constituting^a higher grade. He had also referred to sanction of posts in the higher grade as distinct from those in the lower grade in the reply statement. Against this the learned counsel for the respondent argued that in the casual labour class there are no regular scales and denied that there were two different grades and separate sanctions for posts. It was his contention that originally R4 was being paid at a lower rate and that after the examination the earlier rate of Rs.8=65 per day was converted into Rs.10=50 per day. The learned counsel for the applicant however maintained that even after R4 was shifted to the higher rate the post at the lower rate was filled by someone else. The main question is not the rate at which the casual labour is paid. The rates can vary depending upon the areas where they work and from time to time. What is crucial is the length of service as a casual labour by which one attains temporary status deciding the seniority. We do not agree with the contention of the applicant that conferment of temporary status when R4 was being paid at lower rates should not be carried forward when he was shifted into higher rate on the ground that he entered a new grade. Casual service is casual service and there are no^{different} grades of casual service. The applicant also started only as a casual labour (tailor) but at a later date than R4. We therefore conclude that the seniority of the applicant vis-a-vis had been correctly arrived at.

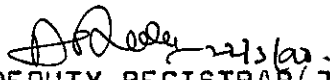
R.S.

5/10/87 ✓

8. In the result the application fails with no order as to costs.


(D.SURYA RAO)
Member(Judl)

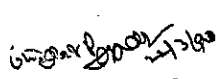

(R.BALASUBRAMANIAN)
Member(Admn)

Dated 22-3-1990  DEPUTY REGISTRAR(J)

TO:

1. The General Manager, (Union of India) south central Railway, Rail Nilayam, Secunderabad.
2. The Chief Personnel officer, south central railway, Rail Nilayam, Sec'bad.
3. The Divisional Railway Manager, S.C.Railway, Metre Gage, Sec'bad.
4. One copy to Mr.G.Ramachandra Rao, Advocate, 3-4-498, Barkatpura chaman, Hyderabad-500 027.
5. One copy to Mr.N.R.Devaraj, SC for Railways., CAW, Hydera
6. One copy to Hon'ble Smt. R. Balasubramanian, member (Admn), C.P.T.
7. One spare copy.

kj.



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:(JUDL.) ✓

A N D

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

A N D

HON'BLE MR.R.BALASUBRAMANIAN:(M)(A) ✓

DATED: 22.3.90

ORDER/JUDGMENT: ✓

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

T.A.No.

D.A.No.

in
(W.P.No.)

882/89

Admitted and Interim
directions issued.

Allowed.

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs. ✓

Sent to Xerox on:

at S.No.2. The applicant was appointed as a casual labour (tailor) with effect from 2.7.79 @ Rs.10=50 per day.

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Rd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.882/89.

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S.Venkateswara Rao

... Applicant

Versus

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Secunderabad
& 3 others

... Respondents



COUNSEL FOR THE APPLICANT : Shri G.Ramachandra Rao,
Advocate.

COUNSEL FOR THE RESPONDENTS: Shri N.R.Devaraj,
SC for Railways.

CORAM:

HON'BLE SHRI D.SURYA RAO : MEMBER (JUDL)

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

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

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Rid

.....5

W.S.B.

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8. In the result the application fails with no order as to costs.

Sd/- x x x x x
(D. SURYA RAO)
Member: (J)

// True copy //

Sd/- x x x x x
(R. BALASUBRAMANIAN)
Member: (A)
CERTIFIED TO BE TRUE COPY
COURT OFFICER.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad.

To:

1. The General Manager, (Union of India) south central Railway, Rail Nilayam, Secunderabad.
2. The Chief Personnel officer, south central railway, Rail Nilayam, Sec'bad.
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7. One spare copy.

...

kj.

Case Number	CA. 882/89
Date of Judgement	22-3-90
Copy made ready on	22-3-90
Section Officer (J)	

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[Signature]