

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

O.A. No. 922/89

Dt. of Decision 10.6.93

T.A. No.

K. Koteswara Rao

Petitioner

Mr. S. Lakshma Reddy

Advocate for
the petitioner
(s)

Versus

Union of India, rep. by the General Manager, S.C.Rly., m
Secunderabad and 8 others.

Respondent.

Mr. N.R. Devraj

Advocate for
the Respondent
(s)

CORAM

THE HON'BLE MR. A.B. GORTHI : MEMBER (ADMN.)

THE HON'BLE MR. T. CHANDRASEKHARA REDDY : MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the judgement? ✓
2. To be referred to the Reporters or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
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.)

ns.

(HTCSR)
M(J)

(HABG)
M(A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.922/89

Date of Order : 10.6.1993

BETWEEN:

1. K.Koteswara Rao
- 2- A.V.S.T.Sai
3. K.Ramana Reddy
4. A.Ellaiah
5. M.Madhu Babu
6. Sk.Muneer
7. Ch.Bala Guravaiah

.. Applicants.

A N D

1. Union of India rep. by
the General Manager, S.C.Rly.,
Rail Nilayam, Secunderabad.
2. Deputy Chief Mechanical Engineer,
Wagon Workshop, S.C.Rly.,
Guntupally, Krishna District.
3. P.Kumar, S/o. Not known, H.S.K. Grade-I,
O/o.D.C.M.E. Guntupalli.
4. G.Hanumantha Rao, -do-, Grade II Welder, -do-
5. V.Ganesh, -do- H.S.K. Grade I, O/o. -do-
6. D.D.Awaste, -do-
7. S.B.Hussain, -do-
8. S.Srivatsav, -do-
9. T.Daniel, -do-

.. Respondents.

Counsel for the Applicants

.. Mr.S.Lakshma Reddy

Counsel for the Respondents

.. Mr.N.R.Devraj

.. Mr. K.S. Murthy Sr
Mr. V. Rama Rao Sr R3,
5159

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member(Admn.).

The applicants are Skilled Welders in the Wagon Work Shop, Guntupalli. They initially joined the Railways during 1976-78, but joined the Workshop during 1980-81 in response to a notification issued by the authorities calling for optees to join the Wagon Workshop. The optees were given assurance that their past service would be protected for the purpose of their seniority in the Wagon Workshop. Seniority list was published on 19.4.1982 and another provisional seniority list was published on 1.4.1984. In both the said seniority lists the applicants' seniority was shown based on their length of service. Thereafter on 1.8.1986 and again on 9.4.1987 the respondents published a seniority list upsetting the applicants' seniority that was initially reflected in the earlier seniority lists. Aggrieved by the said seniority list, some employees filed OA.387/87. It was allowed on 28.11.1988 in favour of the applicants. Consequently another seniority list was published on 23.1.1989. In the said seniority list the benefit of the judgement in OA.387/87 was restricted only to the respondents therein and not to all the others, such as the applicants who were similarly situated. The prayer of the applicants is that the consequential promotion given to the private respondents be set aside and that the seniority of the applicants be restored in accordance with the judgement in OA.387/87 and that they be given all consequential and incidental benefits.

2. The respondents in their reply affidavit have clarified that the method of filling up the skilled category posts laid down in the Railway Board's letter dated 27.9.1979 is as follows:-

- (A) 50% of the vacancies of Skilled Grade III are to be filled by promotion from employees working in semi-skilled grade with six years service.
- (B) 25% of the vacancies are to be filled through limited departmental competitive examination.
- (C) 25% of the vacancies are to be filled by direct recruitment of candidates possessing required educational/technical qualifications.

It was decided that against ^{the} last mentioned 25% quota, candidates who completed Act Apprentices and possessed ITI certificates could be directly recruited. Serving employees with the said requisite qualifications and who are not more than 25 years old were also permitted to be absorbed in the skilled grade. This age limit was subsequently relaxed. The private respondents joined the work shop in 1978-79 and appeared for the required test and were consequently promoted w.e.f. 19.11.1979. The applicants also appeared for the trade test in 1980 and were consequently promoted in December 1980. It was because of this the private respondents were shown as senior to the applicants. As regards the judgement in OA.387/87 is concerned, the respondents state that the benefit of the said judgement was confined only to the respondents therein. They have further, stated that in a subsequent case (OA.108/88) the judgement in OA.387/87 was considered, and but similar relief was refused to the applicants in OA.108/88 because the facts stated in both the cases were held not to be identical.

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3. We have heard Mr.S.Lakshma Reddy, Advocate for the applicant and Mr.N.R.Devraj, for the official respondents and Mr. K.S.Murthy, for the private respondents.

4. Mr.S.Lakshma Reddy's initial contention was that as the applicants ^{ed} join the Wagon Work Shop with an assurance that their past service would be protected for the purpose of the seniority, their seniority in the skilled grade should be based on the length of service. This contention cannot be accepted because it was only in the grade of Kalasi their seniority would be protected on the basis of their length of service. As regards their seniority in the next promotional post is concerned, what is relevant is the date of their regular promotion to the next higher post.

5. Apparently the ~~applicanxxxxxxaxxxxxxx~~ ~~respondenxxxxxxaxxxxxxx~~ applicants were given promotion by the Railway authorities under the 25% quota ^{meant} for direct recruits possessing ITI certificate or qualified in the Act Apprentices Course. A large number of persons came to be promoted as against the 25% quota and this was explained by the official respondents as due to the exigency service. Mr.S.Lakshma Reddy's main contention is that although promotions were given under this quota both the applicants and the respondents should be treated as promotees only and not as direct recruits. In this context we may refer to the operative portion of the judgement in OA.387/87.

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" We would conclude by stating that the applicants fail in regard to all contentions except contention (2) namely, that in fixing the inter-se seniority of applicants and respondents 3 to 6 the latter i.e. respondents 3 to 6 will be treated as promotees and not direct recruits and that the seniority of respondents 3 to 6 will be fixed according to their date of promotion to the skilled category of Welders."

The operative portion of the judgement in OA.387/87 thus allows the private respondents to reckon the seniority from the date of their promotion.

6. In OA.108/88^{to} which our attention has been drawn by the learned counsel for the private respondents the judgement in OA.387/87 was not followed. The relevant portion of the judgement in OA.108/88 may be extracted below:

"It is clear, therefore, that the impugned order dated 21.3.1987 showing them as direct recruits is not illegal. Sri Ramachander Rao has sought to contend that by an earlier judgement in OA.387/81, a similar contention raised on behalf of Welders-cum-Turners was allowed. He, therefore, contends that on the same analogy, the applicants herein are also entitled to the said relief and that respondents cannot be shown as direct recruits. In that case, however, no material was placed to show that the Welders/Turners shown as direct recruits were selected on the basis of the qualifications prescribed as direct recruits viz. that they were Act Apprentices or ITI qualified candidates and they were separately trade tested as has been done in this case. The said decision therefore, is not applicable to the facts of the present case."

7. A review filed in OA.108/88 was dismissed by the Tribunal and thereafter an SLP filed before the Hon'ble Supreme Court also has been dismissed. It may be stated here that in OA.108/88 the Tribunal refused the applicants'

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Copy to:-

1. General Manager, South Central Railway, Rail Nilayam
~~80088~~ Union of India, Secunderabad.
2. Deputy Chief Mechanical Engineer, Wagon Workshop,
South Central Railway, Guntapally, Krishna Dist.
3. One copy to Sri. S. Lakshma Reddy, advocate,
C.A.T., Hyderabad.
4. *one copy to Mr V. Ramana Rao, Counsel, 3-6-779, H. Mayapalli Nagar, Hyd*
One copy to Sri. N.R. Devaraj, SC for Rlys, CAT, Hyd
5. One copy to Deputy Registrar (Judl.), CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. Copy to All Benches & Reporters as per standard
list of CAT, Hyd.
8. One spare copy.

Rsm/-

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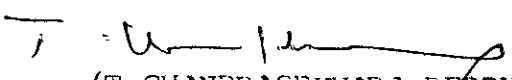
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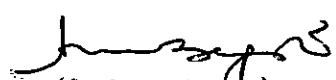
... 6 ...

prayer for grant of similar benefit as was given to the applicants in OA.387/87.

8. From the afore-stated it is clear that the applicants joined the Railway Service earlier than the private respondents. But after coming to the Wagon Work Shop it was the private respondents who came to be selected under the 25% quota and were promoted w.e.f. 19.11.1979 whereas under the same 25% quota the applicants were allowed to take the required Trade test and were promoted to Skilled Grade III some time in December 1980. Admittedly the private respondents were promoted to Skilled Grade prior to the date when the applicants were promoted to the said Grade. As per the extant rules governing the seniority in the promotional post it was the date of promotion that governs the inter-se seniority of the promoted person. The question of length of service becomes irrelevant. Even in the operative portion of the judgement in OA.387/87, it would be of interest to note, that though respondents 3 to 6 were treated to be promotees, their seniority was to be fixed according to their date of promotion to the Skilled category of Welders. From any point of view we are unable to accept the applicants' contention that they should be deemed to be senior to the private respondents merely because they were shown as seniors in the earlier seniority lists of 1982 and 1984.

9. In view of ~~the~~ what is stated above we find no merit in this application, the same is dismissed with no order as to costs.

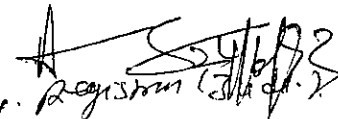

(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 10th June, 1993

(Dictated in Open Court)

sd


Dy. Registrar (Judl.)
corr - 7/-

(7) O.A. 922/89

TYPED BY 825 COMPARED BY
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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HYDERABAD BENCH
HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR. V.C.

AND

THE HON'BLE MR. A.B. Gopin ~~R. BALASUBRAMANIAN~~ M(A)

AND

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

AND

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

Dated: 12/6/1993

ORDER/JUDGMENT:

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

O.A.No.

in
922/89

~~T.A.No.~~

(W.P.No.)

Admitted and Interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

