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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

TRANSFERRED/ORIGINAL-APPLICATION NO. 946 OF 1989

DATE OF ORDER: 17th July, 1990

BETWEEN:

Mr. N. Mangaraju

APPLICANT(S)

VS.

Dy. Chief Mechanical Engineer,
Wagon Workshop, &x8x Guntupalli,
Krishna District (S.C.Railway) and another

RESPONDENT(S)

FOR APPLICANT(S): Mr. S. Lakshma Reddy, Advocate

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

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COURT: Hon'ble Shri B.N. Jayasimha, Vice Chairman,
Hon'ble Shri D. Surya Rao, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the No fair copy of the Judgment?
4. Whether it needs to be circulated to No 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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ORIGINAL APPLICATION NO.946 OF 1989

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI D.SURYA RAO, MEMBER (JUDL.)

The applicant herein is a Skilled Worker of the Railway Wagon Workshop, Guntupalli, Krishna District of South Central Railway. Earlier to his joining the Wagon Workshop, he states that he was appointed as Casual Labourer at Loco Shed, Lalaguda, Secunderabad on 3.11.1973. In pursuance of the notification calling for options for transfer to Wagon Workshop, Guntupalli, the applicant has exercised his option for transfer to the Wagon Workshop. He was transferred on 23.3.1981 and joined at Guntupalli on 31.3.1981. He was promoted as Semi Skilled Grade-III on 10.11.1981, as Skilled Grade-II^{III} worker on 7.1.1982, as Skilled Grade-II on 15.10.1985 and as Skilled Grade-I on 13.5.1989. There were earlier writ petitions filed in the High Court of Andhra Pradesh and Original Applications filed in this Tribunal by the applicant ~~stating~~ that his services as Khalasi from 1.4.1974 in the Loco Shed, Lalaguda had not been taken into account while preparing the seniority list of semi-skilled workers dated 26.8.1986. He succeeded in the litigation and consequently a revised seniority list was published showing his correct position in the seniority list after taking into account his service as Khalasi from 1.4.1974. As a result of the writ petition, ~~xxxxxx~~ the applicant was shown above Mr. D.Rufus Williams in the category of Skilled Grade-I. Mr. D.Rufus Williams was promoted as Skilled Grade-I on 16.3.1981. The

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applicant states that after he succeeded in O.A.No.545/89, the Deputy Chief Mechanical Engineer, Guntupalli Wagon Workshop passed orders in regard to his request for stepping up of his pay on par with his junior Mr. Rufus Williams. His request for stepping up of his pay on par with his juniors who had been promoted to semi-skilled, skilled and highly skilled grades much earlier was not agreed to on the ground that his promotion to the higher grades can be regulated only from the time he joined the Workshop. It is this order that is sought to be questioned in this application. The applicant seeks a direction to set-aside the order dated 21.11.1989 and the modified orders by fixing the applicant's pay in the category of HSK Gr.I Welder with effect from 16.3.1981, the date on which Mr. Rufus Williams was promoted as such and to pay all consequential benefits.

2. On behalf of the respondents, a counter has been filed stating that Mr. Rufus Williams/ opted to work at Guntupalli workshop as Khalasi and joined the Workshop on 8.10.1976 i.e., long earlier the applicant joined the Workshop. After joining the Workshop, the applicant and others similarly placed employees had been promoted to higher grades as a large number of vacancies existed at that time. While calling for options on different occasions from employees of other Workshops, it was mentioned in the notification that inter-se seniority of optees will be maintained in the grade in which they opted. It is further stated that Mr. Rufus Williams/ and others earned three increments in the skilled grade by the time applicant was promoted as Skilled Grade-I Welder with effect from 1.1.1984. Since the juniors worked for longer periods in higher grade

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as ex.skilled Grade-I, they are naturally eligible to draw higher pay. A statement is furnished showing that Mr. Rufus Williams was promoted to the Skilled Grade-III on 21.11.1979 ^{as per new order that was promulgated A} and the ^{new order} retrospective effect was given from 1.8.1979, as Skilled Grade-II on 5.6.1980 and as Skilled Grade-I on 16.3.1981. While stating that the applicant was given seniority over Mr. Rufus Williams, it is contended that he is not eligible for fixation of pay on par with Mr. Rufus Williams and arrears of pay.

3. On behalf of the applicant, a reply has been filed stating that the benefits claimed by the applicant were given to other employees but the same was being denied to him. He cited Office Memos dated 20.9.1988 and 2.9.1990 wherein such benefit was given to similarly placed employees.

4. We have heard the learned counsel for the applicant Shri S.Lakshma Reddy and Shri N.R.Devaraj, learned Additional Standing Counsel for Railways on behalf of the respondents. On going through the details given in the case, the main question that requires to be considered is whether by virtue of his being senior to Mr. Rufus Williams in the grade of HSK Grade-I, the applicant is entitled to stepping up of pay on par with Mr. Rufus Williams and the period from which he would be entitled to the arrears. It is not disputed that insofar as stepping up of pay is concerned, it has to be regulated under Establishment Serial No.173/67- Circular letter No.P(R)612 dated 30.7.1967 (Railway Board's letter No.E(NG)63/PMI/92 dated 15/17.9.64.) Para-2 is relevant and which may be quoted as under:-

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"The matter has been considered and the Board desire that each such case should be dealt with on its merits. The staff who have lost promotion on account of administrative errors should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion. Pay in the higher grades on promotion may be fixed proforma at the stage which the employee would have reached if he was promoted at the proper time. The enhanced pay may be allowed from the date of actual promotion. No arrears on this account shall be payable as he did not actually shoulder the duties and responsibilities of the higher grade posts."

The orders of the Railway Board cited above are clear and the applicant's claim for fixation of his pay in comparison to that of his junior, Shri Rufus Williams is, therefore, to be upheld.

5. The next point is that the applicant is promoted on 13.5.1989 to the HSK Grade-I. He was, however, given the said grade retrospectively from 1.1.1984 in the post which was created consequent on restructuring. He has claimed that he should be paid arrears of pay from 16.3.1981 the date of promotion of Shri Rufus Williams. The applicant having joined the workshop only on 31.3.1981, the question of granting him pay on par with Shri Rufus Williams from 16.3.1981 does not arise. In terms of the Railway Board letter dated 15/17.9.1984, he is eligible to arrears in the Grade-I post only from the date on which he started shouldering higher responsibilities in the Grade-I post. The question which now arises for determination is as to the date from which he commenced shouldering higher responsibilities in the Grade-I post. Shri Devaraj contends that the applicant has actually shouldered the responsibility from

To

1. The Deputy Chief Mechanical Enginner,
Wagon Workshop, Guntupalli, Krishna Dist.
2. The Chief Personnel Officer,
S.C.Railway, Railnilayam, Secunderabad.
3. One copy to Mr.S.Lakshma Reddy, Advocate
3-4-548/3, Behind Y.M.C.A. Newr Andhra Bank, Narayanaguda, Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
5. One spare copy.

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13.5.1989 and therefore arrears are to be regulated only from 13.5.1989 and not from 1.1.1984. It is seen from the orders promoting the applicant from 1.1.1984 consequent to restructuring, vide Office Order No.5/89 dated 13.6.89 of the Deputy Chief Mechanical Engineer's office, Wagon Workshop, Guntupalli, that he was eligible for arrears of pay in the grade of promoted post of Highly Skilled Grade-I with effect from 1.7.1985 ~~and from the period of 1.1.1984 to 30.6.1985~~ and for the period from 1.1.1984 to 30.6.1985 the applicant was eligible for lumpsum amount as arrears. This shows that effectively the applicant was treated as shouldering the higher responsibility with effect from 1.1.1984 and that he was granted the benefit of the higher scale from 1.1.85. Thus, for all purposes the respondents themselves have treated 1.7.1985 as the date from which he is eligible for drawing pay in the scale as HSK Grade-I. It follows that the applicant's pay shall be fixed as on 1.7.1985 on par with his junior Mr. Rufus Williams and he will also be entitled to arrears from that date.

6. With these directions, the application is allowed. There will be no order as to costs.

(Dictated in the open Court).

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B.N.Jayashimha
(B.N.JAYASIMHA)

Vice Chairman

D.Surya Rao
(D.SURYA RAO)
Member (Judi.)

Dated: 17th July, 1990.

17/7/90
S. D. Y. REGISTRAR (JUDL)

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CHECKED BY

APPROVED BY

TYPED BY *f*

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

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

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M (J)

AND

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

DATE: 17/7/90

ORDER/JUDGMENT:

T.A. / R.A / C2A / No.

in

T.A. No.

W.P. No.

O.A. No. 946/89

Admitted and Interim directions issued
Allowed.

Dismissed for Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

