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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

O.A. No. 78 of 1989.

~~T.A. No.~~

DATE OF DECISION December, 1989.

Petitioner

Advocate for the
Petitioner(s)

Versus

Respondent

Advocate for the
Respondent(s)

CORAM

The Hon'ble Mr.D.SURYA RAO : MEMBER (JUDL) (I)

The Hon'ble Mr.R.BALA SUBRAMANIAN : MEMBER (ADMN) NO

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 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)

DSR
HM(J)

(72)

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

D.A.No.78/89.

Date of Judgment : 14-12-89

P.Sreeramulu & 2 others

...Applicant

Versus

The General Manager,
South Central Railway,
Secunderabad & 2 others.

...Respondents

Counsel for the Applicants : M/s G.Ramachandra Rao
M.Rama Rao

Counsel for the Respondents : Shri N.R.Devaraj

CORAM:

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

HONOURABLE SHRI R.BALA SUBRAMANIAN : MEMBER (A)

(Judgment of the Bench dictated by Hon'ble
Shri D.Surya Rao, Member (J)).

The applicants (three in number) are now
working ^{as} Head Travelling Ticket Examiner in Guntakal Division
of South Central Railway. All the 3 were previously working
as Asst.Station Master in the scale of Rs.330-560 (RS). In
October, 1986 applicant No.1 was medically decategorised
in the post of Assistant Station Master and given alternative
^{employment as}
~~post of~~ Ticket Collector on 21-11-76 in the pay scale of
Rs.260-400 (RS). The applicant No.2 was medically decate-
gorised by an order dated 16-6-75 and posted as Commercial
Clerk in the scale of pay of Rs.260-400(RS). Thereafter he
was posted as Ticket Collector in the ^{same} /~~the~~ scale of pay

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of Rs.260-400 on 3-10-79. The 3rd applicant was Medically decategorised while working as Assistant Station Master in August, 1978 and given the alternative post of Ticket Collector on 28-8-78 in the scale of Rs.260-400. The applicants subsequently received promotions as Senior Ticket Collect^{or}s and later as Head Travelling Ticket Examiners. The case of the applicants is that at the time of offering the alternative employment, there were clear vacancies in several categories of posts including the Ticket Checking category in the equivalent scale of Rs.330-560, which they were drawing prior to decategorisation. They ^{were} however given a lower scale and subsequently promoted to the scale of Rs.330-560. They ~~now claim~~ ^{state} that under chapter XXVI of the Indian Railway Establishment Manual and several circulars issued by the Railway Board they were entitled to absorb in the scale of Rs.330-560 since vacancies are available. In regard to Sri D.Mohan Rao, who was similarly placed, the Railway Board in letter No.E(REP) 1/84 A5-14-14/70 dated 7-11-84 directed the respondents that the case should be reviewed and he should be considered. Respondents ^{had} ~~have~~ not taken any action on the said Railway Board letter. Lawyers Notices ^{were then} ~~was thereupon~~ sent on behalf of the said Sri Mohan Rao and other similarly placed employees including the applicants herein. ^{to implement the Railway Board's order of 7-11-1984} Thereupon the 2nd respondent issued a provisional seniority list revising the seniority of the

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aforemention^{ed} Sri Mohan Rao and the three applicants herein by his proceedings No.G/P.612/II/TCs/Vol.II dated 24-8-87. The applicants were shown in this list at Sl.No.8, 12 and 31 respectively. Applicant No.1 made a representation against the said seniority that his position was not correctly shown and a junior in the lower category was also placed above him. ^{In the meanwhile} ~~Thereafter~~ the 2nd respondents issued proceedings dated 30-11-88 proposing to review the order and dated 24-8-87/revised, the seniority of the applicants and placed them at Sl.Nos.51, 52 and 53. It was stated that the competent authority had already decided that the seniority assigned to the applicants ^{by the order D/24.8.87} treating them as having been absorbed in the equivalent grade of Rs.330-560 at the time of decategorisation was incorrect and it was decided to revise the seniority position of the applicants. Subsequently the 2nd respondent cancelled the proceedings dated 30-11-88 and issued identical proceedings on 26-12-88/3-1-89. In the said proceedings the earlier ranking of the applicants as 8, 12 and 31 was sought to be revised and placed between the candidates ranking at Sl.No.50 and 51. This letter is sought to be impugned in the present application. The applicants pray that the Tribunal may therefore call for the proceedings dated 26-12-1988/3-1-89 and quash the same and direct the respondents to maintain the seniority of of the applicants in the category of Travelling Ticket Examiner as per the seniority list dated 24-8-87 with con-

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sequential benefits including promotion to the next higher posts.

2. A counter has been filed admitting that the three applicants were previously working in the scale of Rs.330-560, that on decategorisation they were not absorbed in the identical scale but in the lower scale of Rs.260-400. It is contended that the applicants having accepted the alternative job as Ticket Collectors in the scale of Rs.260-400 and progressed in the cadre of Ticket Collectors, they cannot now claim for seniority in the higher grade of Rs.330-560 treating them as having been absorbed straight away in the said category or scale with retrospective effect on the plea that there were vacancies in the grade of Rs.330-560 at that time. While admitting that the Railway Board had in their letter No.E(REP) 1/84 A5-14-14/70 dated 7-11-84 directed review of the case of Sri Mohan Rao, it is contended that the reference doesnot apply to the case of the applicants and that in any event the claim of Sri Mohan Rao also was ^{later turned} ~~turned~~ down. So far as the provisional list issued by the 2nd respondent dated 24-8-87 is concerned ^{red} it is stated that the representations against the same was received from the other employees ^{the list was prepared} and/taking into account ~~the fact~~ ^{It is stated that} the applicants position before medical decategorisation. L

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the Railway Boards letter dt.7-11-84 is not applicable to them and that cases for review or reconsideration of decategorised employees is governed only by the Railway Board letter No.E(NG)1-78/SR 6/6 dated 11-1-79. Such a review is only available in the cases of employees absorbed into lower category after 11-4-75. The counter states that the cases of the applicants were reviewed since the Railway Boards letter dated 7-11-84 issued in the case of Sir Mohan Rao is not applicable to them. It is however later conceded in the counter that the applicants 1 and 3 are governed by the said instructions dated 11-1-79 and their cases can be reviewed by revising the incorrect seniority assigned to them. Regarding the 2nd applicant it is contended that since he was absorbed as Commercial Clerk in the scale of Rs.260-400 and later on his own request he had joined as Ticket Collector, his case would not be eligible for review. For these reasons it is prayed that the application may be dismissed.

3. We have heard the learned counsel for the applicant Shri G.Ramachandra Rao and Shri N.R.Devaraj, learned standing counsel for Railways. The applicants seniority in the category of Travelling Ticket Examiners in the scale of Rs.330-560 was reviewed by the 2nd respondent by his order No. G/P.612/II/TCs/Vol.II dated 24-8-87 and they were given ranking at Sl.No.8, 12 and 31 respectively. By the same order two other similarly placed employees namely Sri D.Mohan


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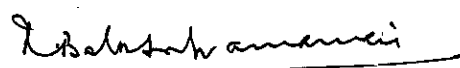
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Rao and Sri S.Narayana were given Sl.No.13 and 14. This seniority was given on the basis of their length of service in the parent post prior to decategorisation. The cases of all the 5 employees were reviewed pursuant to the directions of the Chief Personnel Officer by the second respondent, by issue of the final impugned orders dated 26-12-88/3-1-89. Sri Mohan Rao and Sri Narayana had filed a separate application i.e. O.A.No.896 of 1988 questioning the review by the said orders dated 26-12-88/3-1-89. The case of the applicants herein and those of Sri Mohan Rao and Sri S.Narayana are thus similar. We have held in O.A.No.896 of 1988 that the Railway Board's letter dated 7-11-84 is not contrary to its earlier letter dated 11-1-79, that the letter dated 11-1-79 deals with the cases of medically decategorised employees who had to be absorbed in the lower grade for want of vacancies in the equivalent scale or category while the letter/instructions dated 7-11-84 clarifies the rules or policy in regard to absorption of medical decategorised staff in the same or equivalent category where vacancies are available at the time of decategorisation. We had further held that the letter dated 7-11-84 has correctly enunciated the rule position in regard to the decategorised employees when vacancies are available and that the decision or directions of the Chief Personnel Officer to the 2nd respondent stating that there is no scope to review the case of Sri Mohan Rao and other similarly placed interms of the Railway Board letter

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is not correct.
dated 7-11-84. We had accordingly ~~declared~~ that the
impugned order passed by the 2nd respondent in his proceed-
ings No.G.P.612/II/HTC Pilor dated 26-12-88/3-1-89 is
illegal and accordingly quash the same. The reasons
given by us in O.A.896 of 1988 would equally apply to the
present case as the orders ~~are~~ sought to be ~~imposed~~
both cases ~~are~~ one and the same. We accordingly allow this
application and quash the impugned orders dated 26-12-88/
3-1-89 in so far as the applicants ~~are~~ ^{are concerned.} herein also. The appli-
cation is allowed but in the circumstances without costs.


(D.SURYA RAO)
Member (J)


(R.BALA SUBRAMANIAN)
Member (A)

Dt. 14th December, 1989.


DEPUTY REGISTRAR (J).

To,

1. The General Manager (Union Of India), South Central Railway,
Railnilayam, Secunderabad.
 2. The Divisional Railway Manager, South Central Railway, Guntakal
Division, Guntakal.
 3. The Chairman, Railway Board, New Delhi.
 4. One copy to Mr. G. Ramachandra Rao, Advocate, 3-4-498, Barkatpura
Chaman, Hyderabad-500027.
 5. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad.
 6. One spare copy.
- P764
↓

Draft by: ^{75/2} Checked by: Approved
D.R. (3)

Typed by: ^{75/2} Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

~~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)~~

HON'BLE MR. R. BALASUBRAMANIAN,
MEMBER (A)

DATED: 14.12.85

ORDER/JUDGMENT

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

T.A.No. (W.P.No.)

O.A.No. 78/89.

~~Admitted and Interim directions~~
~~issued.~~

~~Allowed.~~

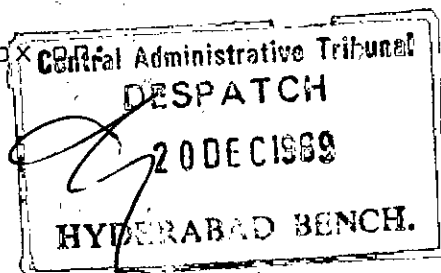
~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. Ordered.~~

~~No order as to costs.~~

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Asr
17/7/91
TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

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

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

DATED: 15-7-1991

ORDER/ JUDGMENT

Central Administrative Tribunal

DESPATCH

18 JUL 1991

HYDERABAD BENCH.

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

in

D.A. No. 78/89.

T.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

~~Allowed.~~

~~Disposed of with direction.~~

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

17/7/91