

(57)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A.No. 128 of 1990

Date of Order: 17-4-1990

Between:-

V.S.Rama Krishna .. Applicant
and

1. The Chief Personnel Officer,
South Central Railway,
Secunderabad.

2. The Divisional Railway Manager,
South Central Railway,
Vijayawada. .. Respondents

3. The Sr.Divisional Personnel Officer,
S.C.R., Vijayawada.

Appearance:-

For the Applicant : Shri P.Krishna Reddy, Advocate.

For the Respondents : Shri N.R.Devraj, Standing Counsel
for Railways.

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THE HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HON'BLE SHRI D.SURYA RAO, MEMBER (JUDICIAL).

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYASIMHA,
VICE-CHAIRMAN.)

1. The applicant is a Head Ticket Examiner working in the South Central Railway, Vijayawada. He has filed this application questioning the Order of the Senior Divisional Personnel Officer, South Central Railway, Vijayawada, bearing No.B/11/PO/III, dated 25.11.1986.

2. The applicant states that he joined the Railways as Assistant Station Master having been selected by the Railway Service Commission in the grade of Rs.330--560. In 1979 he was promoted as Assistant Station Master in the grade of

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Rs.425--640. He was eligible for stepping up of his pay to Rs.500/- with effect from 2-6-1979 as his junior was given the same pay at that time.

3. He states that unfortunately the Medical Board declassified him by an order dated 15-11-1979 as he was in the medical category of B-1. For absorbing him in the alternative job, the Committee constituted for the purpose, by an order dated 31-12-1979 absorbed him as Ticket Collector i.e., in the Commercial Department. He was posted by an order dated 3-1-1980 as Ticket Collector in the grade of Rs.260--400 fixing his salary at Rs.400/-. Later on 27-3-1980 he was promoted to the grade of Rs.330--560 w.e.f. 1-1-1980. Having been promoted as Head Ticket Examiner, he is now in the grade of Rs.425--640.

4. The applicant refers to Clause 2606, Clause 2609 and Clause 2614 of the Railway Establishment Manual which lay down the procedure to be adopted for finding alternative employment, suitable alternative employment for medically declassified staff. The committee should examine a medically incapacitated person for absorption and after the committee has examined the Railway servant and determined his suitability for certain categories of posts, the officer under whom the Railway servant was working will proceed to take further action to find suitable alternative employment for him. The Committee has to determine to which category a medically declassified/incapacitated employee can be absorbed. The question of finding suitable alternative employment should be left to the officer under whom the said Railway servant was working. In the present case, the Committee has determined that the applicant can be absorbed in any post in the category of commercial Dept.. He further states that clause 2609 clearly lays down that the

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alternative post ~~should~~ be offered to such a person, should be the best available for which he is suited to ensure that the loss in emoluments ~~should~~ be minimum. The applicant was in the grade of Rs.425--640 and drawing a salary of Rs.500/- as Assistant Station Master. According to the rules, his salary should be more than Rs.400/- and he further says that vacancies were available both in the category of previous Head Ticket Collectors in the grade of Rs.425--640 and also Senior Ticket Collectors in the grade of Rs.330--560. However, contrary to these rules, he was absorbed as Ticket Collector in the grade of Rs.260--400.

The affair further

5. He states that as injustice was done to him, he filed a number of petitions before the respondents, but no reply was given for any of the representations made by him and his representations are still pending. He further states that as he did not receive any reply from the respondents, he made representations to the Assistant Labour Commissioner(Central), Vijayawada, on 19-2-1986. The Assistant Labour Commissioner referred the same to the 3rd respondent i.e. Senior Divisional Personnel Officer, South Central Railway, Vijayawada, on 15-3-1986. But there was no reply from the 3rd respondent to the representation made by the applicant. One Sri A.S.Murthy, who was also medically decategorised along with the applicant, has chosen to send a reply on 26-11-1986 to the Assistant Labour Commissioner (Central), Vijayawada, with a copy marked to the applicant. It is stated that "the committee found ~~it~~ him suitable for the post of Ticket Collector in the scale of Rs.260--400 (RS) and recommended accordingly for his absorption." Thereafter the applicant made a representation on 26-12-1980 to the Assistant Labour Commissioner for taking up the matter further, who had expressed his inability to finally decide the matter. According to the

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Assistant Labour Commissioner, it is for the department to consider and take a decision and he has no right to interfere in the matter. Under those circumstances, the applicant has waited for all these years and has, therefore, filed this application.

6. The applicant has also filed an application for condonation of delay.

7. We have heard Shri P.Krishna Reddy, learned Counsel for the applicant and Shri N.R.Devraj, learned Standing Counsel for the Department.

8. It is clear from the facts narrated, the grievance of the applicant relates to the year 1979, when he was absorbed after decategorisation. It is only in 1986 did he approach the Assistant Labour Commissioner for interfering with the Railway Administration on his behalf. The Divisional Manager sent a reply to the Assistant Labour Commissioner on 20.11.1986. Thereafter, the applicant submitted a further memorandum on 10.12.1986 to the Assistant Labour Commissioner. When the Assistant Labour Commissioner expressed his inability to proceed further, it was open to the applicant to seek a reference for adjudication of his grievance. The applicant had already elected the forum for redressal of his grievance, and as such this application is not maintainable.

9. Even otherwise, this application is barred by limitation. Under section 21(2)(a) of the Administrative Tribunals Act, 1985, this Tribunal cannot entertain any application in which the grievance had arisen three years prior to the constitution of this Tribunal. The cause of action arose in this case in 1970 when he was given the alternate employment. The application is liable to be rejected on this ground also.

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In the result the application fails and it is accordingly dismissed. No order as to costs.

(Dictated in the Open Court)

B.N.Jayasimha

(B.N.JAYASIMHA)
VICE-CHAIRMAN

D.Surya Rao

(D.SURYA RAO)
MEMBER (JUDICIAL)

Date: 17-4-1990

D.S.Rao
S/o DEPUTY REGISTRAR (J)
31/4/90

NSR

TO:

1. The Chief personnel officer, south central railway, Sec'bad.
2. The Divisional Railway Manager, south central railway, Vijayawada.
3. The Sr.Divisional personnel officer, S.C.R.Vijayawada.
4. One copy to Mr.P.Krishna Reddy, Advocate, 3-5-899, Himayatnagar, Hyderabad.
5. One copy to Mr.N.R.Devaraj, SC for Railways, BMT, Hyderabad.
6. One spare copy.

...
k.j.

Sharma

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CHECKED BY

TYPED BY:

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:HYD.

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

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

AND

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

AND

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

DATED: 17.4.90.

ORDER/JUDGMENT:

M.A./R.A./C.A./No. 10

T.A.No.

W.P.No.

D.A.No. 128/90

Admitted and Interim directions issued.

Allowed.

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

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