

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

R.A.11/94 in
C.A. NO. 992/90.

DATE OF JUDGMENT: 21-7-95.

BETWEEN:

G.Dayananda Rao

.. Applicant.

AND

1. The Union of India rep. by the General Manager, SE Railway, Garden Reach, Calcutta-13.
2. Chief Personnel Officer, SE Rly, Garden Reach, Calcutta-13.
3. Divisional Railway Manager, SE Rly, Waltair.
4. G.M. Raju
5. G.B. Kothari
6. P.K. Rudra
7. Karmu
8. S.R. Dey
9. E.K. Das
10. Jagadiash Dutta
11. D. Satyanarayana
12. M.D.S. Hussain
13. T.K. Nath
14. A.K. Bhadra
15. Gurucharan Singh
16. Mukul-oh-Bakchi

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI M.Kesava Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.R. Devaraj,
Sr. Addl. CGSC.

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, VC)

Heard Sri M. Kesava Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. The applicant in the OA filed this Review Application. The RA was filed praying for declaration that the action of the respondents in not giving seniority to the applicant in the category of Chargeman B with effect from 19-7-1973 or from 20-7-1977 by counting his adhoc service of Chargeman B and promoting the Juniors ignoring the applicant's seniority and Railway Board's instructions as highly arbitrary, illegal and discriminatory and for consequential direction to the respondents to fix his seniority from 19-7-1973 or from 20-7-1977 in the category of Chargeman B and also to promote the applicant to the post of Chargeman-A from the date his immediate juniors were promoted with all consequential benefits. The OA was dismissed by order dated 7-12-93.

3. The facts which are relevant and material for appreciating the contentions for the applicant are as under :

The applicant was appointed as highly skilled Motor Mechanic Gr.II on 13-10-1964 and was posted in the Engineering Workshop, Sini (Open line). On 3-8-1970 he was promoted as Highly skilled Mechanic Gr.I. On 23-9-72 he was deputed to DDK in the same grade. He was promoted to the post of Chargeman B with effect from 1-11-1972 and regularised in the said post by order dated 9-7-1973

in DDK. After he was repatriated to his parent unit, ~~on 20-12-1977~~ he was appointed as Chargeman B at RAC workshop as Welder on adhoc local arrangement.

4. The applicant was empanelled for the post of Chargeman B in the Open line on a regular measure by order dated 19-1-1990. R-4, R-5, and ~~R-7~~ were ~~also~~ empanelled as Chargeman B on regular measure in 1986.

5. Thus the regular promotion as chargeman B in the Open line ^A ~~to~~ ^{R6 was} R-4, 5, and ~~8~~ is in 1986, while the regular promotion of the applicant as Chargeman B is only in 1990.

6. It was not pleaded either in the OA or in this RA that even though the turn of the applicant for consideration for promotion as Chargeman B had arisen in 1986, his case was not considered. So it can be stated for disposal of this RA that the applicant was considered for regular promotion as Chargeman B in the Open line as and ~~when~~ his turn has come.

7. We held by order dated 7-12-1993 that the applicant cannot claim any benefit on the basis of his promotion though referred to as ~~irregular~~ in transferee unit, for claiming seniority in his parent unit. Accordingly we ~~held~~ that the period of service of the applicant as Chargeman B in DDK cannot be ~~taken~~ into consideration for fixing his seniority in the post of Chargeman B after he was regularly promoted to that post in the openline.

8. The two contentions for the applicant in this Review Application are as under :

i) The applicant was posted in the category of Chargeman B in the Parent Unit on repatriation even though his substantial post in the Parent Unit was only Skilled Gr.I

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and as he was not relieved by the date of his regularization, his adhoc service ^{other} in the parent unit had to be taken into consideration, for the adhoc service of R-4,5, & 7 in the post of Chargeman B ^{was} taken into consideration for fixing ^{their} seniority in the post of Chargeman B, and

ii) As the applicant worked in the adhoc post for 17 years and odd, the same should be taken into consideration for regularising his service in the category of Chargeman B from the date he was promoted to the said post on adhoc basis.

9. Neither of the contentions is tenable. It is seen from the provisional seniority list of Chargeman B as on 31-12-1987 vide page 23 of the material papers in the OA (The same was not relied upon during the hearing of G.A. and it is the basis for R.A.) that even though R-4, 5 & 7 were empanelled on 22-1-1986, they were given regular promotion to the post of Chargeman-B with effect from 1-1-1984. If the seniormost is given adhoc promotion in a regular vacancy and if he is continued till the date of regularization in the said post then the adhoc service in the said post can be taken into consideration for regularization, and consequently for fixing seniority. As the R-4,5 & 7 were in the adhoc service from 1-1-1984 and as there is ^{no} other seniors as per the panel, their service in the post of Chargeman-B were regularised even from the date earlier to the date of empanelment, as they were earlier promoted on adhoc basis. But when by the time the applicant was promoted on adhoc basis in 1977, his seniors were in the lower cadre and they were given adhoc promotion only in 1984 and ^{thus} the seniors were regularly promoted long prior to the regular promotion of the applicant. As such the applicant cannot claim regularization from a date on which he was posted

To

1. The General Manager, Union of India, S.E.Rly,
Garden Reach, Calcutta-13.
2. The Chief Personnel Officer, S.E.Rly,
Garden Reach, Calcutta-13.
3. The Divisional Railway Manager, S.E.Rly,
Waltair.
4. One copy to Mr. M. Kesava Rao, Advocate, CAT.Hyd.
5. One copy to Mr. N. R. Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd
7. One spare copy.

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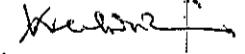
on adhoc basis in the parent unit in 1977. But it is just and proper to direct the respondent-3 to regularise the service of the applicant in the post of Chargeman B from the date his immediate senior in the post of Chargeman B was regularised or from the date on which regular vacancy in the post of Chargeman B in this Unit had arisen whichever is later.

10. Learned counsel for the applicant had not brought to our notice any statutory provision or administrative ~~instruction~~ ~~restriction~~ to the effect that whenever an officer is continued on adhoc basis beyond the stipulated period, that entire period of service should be taken into consideration for regularisation. Hence, we cannot accept this contention also.

11. In the result, the service of the applicant in the post of Chargeman B in the Parent unit had to be regularised from the date on which his immediate senior in the post of Chargeman, ~~assuming~~ charge on promotion from the date on which the regular vacancy in the post of Chargeman in this unit had arisen whichever is later.

12. In the result, the RA is ordered accordingly. No costs. //

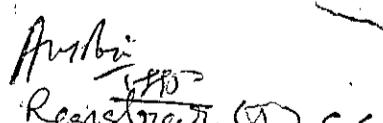

(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
(Vice Chairman)

Dated : July 21, 1995
Dictated in Open Court

sk


Deputy


Registrar (S) CC

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THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR.R.RANGARAJAN: (M(ADMN)

DATED - 21/7/1995.

ORDER/JUDGMENT:

M.R.A./O.A. No. 11961

in

O.A. No.

992/90

TA. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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