

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 12/90.

Dt. of Order: 96 Jan '92.

1. A.Gupta
2. B.Umamaheswar Rao
3. B.Sundara Rao
4. T.Pera Reddi
5. G.Suryanarayana
6. G.Subrahmanyashwara Rao
7. A.Chandram
8. B.V.Subba Rao
9. D.Koteswar Rao

....Applicants

Vs.

1. Chief Engineer (Open Line),
SCR Rail Nilayam, Secunderabad-500 371.
2. Chief Personal Officer, SCR,
Rail Nilayam, Secunderabad-500 371.
3. Asst.Engineer, TT,
SCR, Vijayawada.

....Respondents

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Counsel for the Applicants : Shri A.Suryanarayana Murthy

Counsel for the Respondents : Shri N.R.Devraj

CORAM:

THE HON'BLE SHRI C.J.ROY : MEMBER (JUDICIAL)

(Order of the Single Bench delivered by Hon'ble
Shri C.J.Roy, Member (J)).

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The applicants filed this application under section 19
of the Administrative Tribunal's Act, 1985 to quash the proceedings
No.P(E) 535/TM Office order No.184/89 dt.6-11-89 and the
consequential order issued by the third respondent in his
proceedings number AEN/TT/PC-3 dt.24-11-89 in so far as the
applicants are concerned. Interim order was granted by this
Tribunal on 4-1-90 maintaining the status-quo as on that

date if the applicants are not already relieved.

2. The brief facts of the case are that the first applicant is working as Casual Labour in Track Machine Organisation in Vijayawada Division from 31-5-80. In the provisional Seniority list as on 1-9-89 issued by the Respondents his name is at Sl.No.75. The second applicant also working in the same office and in the same division from 10-2-77 and in the seniority list his name is at Sl.No.18. The third applicant also working in the same organisation from October, 1971 onwards and his name in the seniority list his name is at Sl.No.1. The fourth applicant working from 23-7-78 and in the seniority list his name is at Sl.No.49. The fifth applicant working from 17-8-77 and in the seniority list his name is at Sl.No.30. The sixth applicant working from 12-10-81 and in the seniority list his name is at Sl.No.99. The seventh applicant working from 10-2-77 and his name in the seniority list is at Sl.No.13. The 8th applicant working from 10-2-77 and in the seniority list his name is at Sl.No.13. The 9th applicant is working from 31-12-75 and in the seniority list his name is at Sl.No.6. According to the applicants their names were also recommended for permanent absorption in Vijayawada Division. The applicants allege that they have been transferred by way of pick and choose method by an order dt.6-11-89. It is also alleged that they will lose the seniority if they are transferred to Guntakal Division. It is also pointed out that the posts have been transferred to Guntakal and since

they are casual labours and they are not absorbed against any regular post. The casual labours cannot be transferred against the regular/permanent posts. It is also contended that when the posts are transferred from one Division to another Division, the persons who were employed against that posts should be transferred. It is further contended that since they are not employed against any regular post they should not be transferred and while making these transfers no rule or regulation have been followed. Hence this application.

3. Counter has been filed by the Respondents stating that the Train Traction Machine Organisation is a Central Organisation that is to say eventhough the staff are working in different divisions within the Railway for operational convenience, their seniority and further promotion will be affected duly taking combined seniority of the staff into consideration. As the T.T.Machines as well as the staff working along with the Machines are distributed on prorata basis for Bezwada, Secunderabad, and Guntakal divisions where the T.T.Machines are working, which has been issued in a form of an order by GM/W/SC Lr.No.W.501/1/38/Vol.IX dt. 4-10-1988 and the same has been advised by CPO/SC vide letter No.P(E)535/TM and O.O.No.184/89 dt. 6-11-89.

Shri A.Gupta and 8 others who are working on T.T.M. 6706 and 8769 were already working in GTL Division at the time of issuing the orders with headquarters at

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BPP of BZA-Division. The object of keeping the staff with the machines which they were already working is, to ensure good efficiency of working, since the T.T.Machines are of sophisticated nature which requires more professional ability for operation as well as maintenance of the machines. Accordingly an Office Order was issued vide AEN/TT/BZA lr.No. AEN/TT/RPS/ Screening dt.17-11-89 to effect this order duly addressing to the concerned Foreman/Shop Superintendent. Since no feed-back has come from the concerned Foreman, another letter was also issued by AEN/TT/BZA, relieving the staff vide AEN/TT/PC-3 dt.24-11-89. However, FO/TM/BZA has also relieved the above staff under his letter No.FO/TM/C1.IV/ Staff/89 dt.08-12-89. Basing on these two letters FO/TM/ RU has taken the staff in his Muster Roll in GTL Division from 10-12-89 vide his letter No.FD/TM/Staff/90 dt.12-10-89.

However, some of the above staff who have been confirmed in permanent cadre, their seniority was not affected even though they were allotted to GTL division since it is a Centralised Organisation which is evident under AEN/TT/BZA lr.No. AEN/TT/RPS/Screening and D.O.No. 1/89 dt.27.12.89. Likewise, some of the staff in the above representation and who are under process for confirmation will also be dealt accordingly without they foregoing their respective seniority.

Heard Shri D.Srinivas, Advocate for Shri A.Surya-
narayana Murthy, learned counsel for the applicant and

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Shri N.R.Devraj, learned counsel for the Respondents and gone through the records carefully.

From the averments of the counter it is clear that the applicants are working in the T.T.M.O., which is centrally organised though they are working in different divisions for operational convenience. Hence the seniority of the applicants cannot be affected in view of the fact that the Vijayawada Division as well as the Guntakal Division are both under South Central Railway with Headquarters at Secunderabad. It is assured in the counter and also by the arguments of the learned counsel for the Respondents that the applicants were absorbed in the permanent posts and hence their seniority will not be affected whether they work in Guntakal Division or Vijayawada Division because they belong to the South Central Railway under the Headquarters at Secunderabad. The contention that the posts have been transferred from one division to another division and hence the employees absorbed against those posts have to be transferred cannot be accepted in view of the fact that after absorption only the applicants have been transferred as per the averments and arguments of the learned counsel for the Respondents. It has been assured by the Respondents that the applicants seniority will not be affected in the last but one para of their counter. In view of their categorical assurance that these applicants were absorbed it is no longer open for the applicants to contend that they will lose seniority.

To

1. The Chief Engineer, (Open Line),
S.C.Railwilayam, Secunderabad-500 371.
2. The Chief Personal Officer, S.C.Rly,
Railnilayam, Secunderabad-371.
3. The Asst. Engineer, TT, S.C.Rly, Vijayawada.
4. One copy to Mr.A.Suryanarayana Murthy, Advocate
1-9-295/27/C, Vidyanagar, Hyderabad.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One spare copy.

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11/13/92

The applicants failed to file ~~any~~ affidavit showing or alleging malafidies which require strong proof of particular incident~~s~~ against particular person~~s~~. Therefore I hold that there is no malafidies in the transfer.

The transfer is in exigencies of service. When the applicants joined the service, ~~they~~ automatically supposed to accept the transfer as one of the incident of service.

In Union of India & others Vs. H.N.Kirtania (JT 1989 (3) SC 131) it was held as follows :-

"5....Transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of malafidies."

That apart there was no rejoinder filed that the applicants were working in the Guntakal Division when the order of transfer were issued and that they were working on T.T.Machines of sophisticated nature and that their transfer is to ensure good efficiency for operation and maintenance as they are experienced and working there. This aspect go a longer way to counter the case of the applicants. Applying the principles laid down by their lordships in the above cited judgment the interim order dt.4-1-90 is vacated. In the result the application is dismissed with no order as to costs.

mark
(C.J.ROY)
Member (J)

Dated: 9th January, 1992.

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Dy. Registrar (J)

TYPED BY

COMPARED BY

CHECKED 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. R. RAYASURRAMANTAN *M(A)*

AND

THE HON'BLE MR. *C.J.Roy M(J)*

DATED: 9 - 1 - 1992

ORDER/ JUDGMENT:

M.A./R.A./G.A. No.

in

O.A. No. 12/90

T.A. No.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowd.

Disposed of with directions

Dismissed.

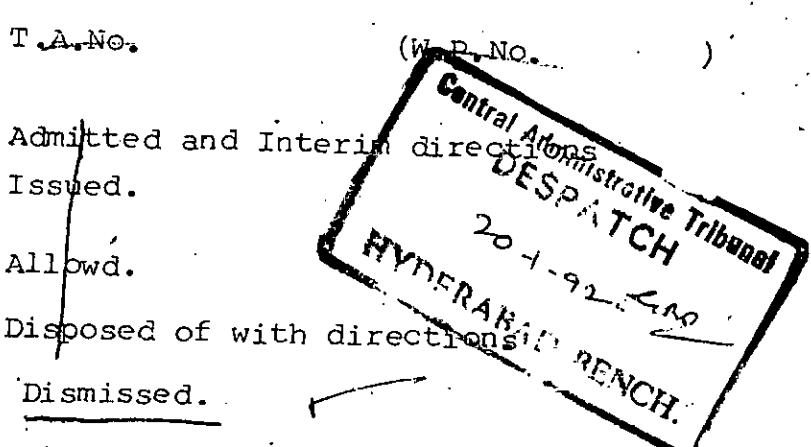
Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.

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