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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

HYDERABAD

OA No. 453/90

Date of judgement: 11-2-93.

Between

K. Sivasankara Rao : Applicant

And

1. Deputy Chief Mechanical Engineer,
Wagon Workshop, South Central Railway,
Guntapalli.
2. Production Engineer,
Wagon Workshop,
South Central Railway,
Guntapalli
3. Works Personal Officer,
Wagon Workshop,
South Central Railway,
Guntapalli. : Respondents

COUNSEL FOR THE APPLICANT : Shri P. Krishna Reddy

COUNSEL FOR THE RESPONDENTS : Shri N.R.Devaraj

CORAM

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman

Hon'ble Shri R. Balasubramanian, Member (Admn.)

(Judgement of the division bench delivered by Justice
Shri V. Neeladri Rao, Vice-Chairman)

An extent of 2.81 cents of land in Survey No.
17.1/A in Kondapalli Firka belonging to the father of
the applicant was acquired for the purpose of construction
of work shop under award No. 5 of 75 dated 21-5-75.
In pursuance of the scheme proposed by the Railways
whereby one job to one member of the family of the
~~displaced~~ person whose land was acquired for the work
shop construction, ^{has} ~~was~~ to be provided, the applicant

applied on 13-5-85 wherein he referred to the acquisition of land belonging to his father and he was appointed on 18-6-85.

An extent of 3.55 cents of land belonging to the mother of the applicant was also acquired for the construction of work shop of the Railways. Then the married sister of the applicant applied on 19-9-83 for a job in the railways in pursuance of the scheme referred to, and she was given a job on 13-10-83. The sister of the applicant died in 1988.

One Shri K. Bhaskar filed OA 596/87 praying for a direction to the Railways to provide a job to him in the Railways under the scheme referred to by alleging that in cases of some others including the applicant herein and his sister, jobs were provided for two members of the family and hence even though one member of his family was already provided with a job, he should be provided with a job in the Railways. While disposing of the same by the Bench of this Tribunal it was observed in the order dated 18-9-87 as under:

" Now in the present application, it is contended that though the Department had stated that if two members (brothers) of one and the same family were given jobs, they would take action for rectifying the said mistakes by terminating such irregular appointments, but despite the Department having undertaken to do so, no action has been taken so far and as a result of which in two cases two members of one and the same family i.e. Karnam Siva Sankar Rao and Naga Pushpavalli (brother and sister) respectively and Garpati Ganapathi Rao and Garpati Subba Rao (both brothers) are continuing in Railway service. It is also stated that this has given a cause of action for the applicant to claim employment in the Railway though the

applicant's brother has already been given a job on the ground that the applicant's father's property has been acquired by the Railway.

" We direct that they should take steps to rectify such mistakes, if any, so as to remove the grievance of the applicant expeditiously."

It is submitted for the respondents that in pursuance of the said direction, the charge sheet dated 16-6-87 was issued and it is as under:

"That the said Sri K. Siva Sankara Rao committed serious misconduct and failed to maintain absolute integrity in that he sought employment in Wagon Workshop, Guntapalli on land losers quota as the son of Shri K. Venkateswara Rao for surrendering 2.81 acres of land in Kondapalli Revenue Firka while his own sister Mrs. K. Naga Pushpavalli has already secured employment as Clerk in Wagon Workshop, Guntapalli on 9-9-83. Thus he concealed the fact that a member of his family has already been a beneficiary under the Land losers Quota and claimed employment under fraudulent means. Thus he violated the provisions contained under Rule 3(1)(i) of Railway Services (Conduct) Rules, 1966".

In ^{his} ~~the~~ ^a ~~explanation~~ dated 5-9-87 submitted by the applicant, the applicant inter alia stated that he submitted his application in the ^{prescribed by railways} proforma and there was neither suppression ^{nor} ~~or~~ concealment of facts. After due enquiry, the concerned authorities passed order dated 14-12-89 removing the applicant from service and it was given effect from 15-12-89. The appeal thereof was dismissed on 16-4-90 and this OA was presented on 14-5-90 challenging ^{said} the order.

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We perused the copy of the application submitted by the applicant to the concerned authority seeking a job. It does not contain a column ^{to state} as to whether any other member of the family was provided with a job under the scheme. The learned Standing Counsel for Railways submitted that they had not prescribed any proforma application and they got the letter dated 1-1-83 of the Railway Board with reference to the scheme of providing jobs to a member of the family of the displaced person consequent upon the acquisition of the land ^{displayed} on the notice boards of the Railway stations etc. and thus wide publicity was given. It cannot be stated by ^{perusing} going through a copy of the applications submitted by the applicant herein seeking a job that he suppressed or concealed the facts. It may be noticed that this is a case where while married sister of the application secured job by submitting that her mother's land was acquired by the Railways, the applicant prayed for a job by submitting that the land of his father was acquired by the Railways. While it is argued for the applicant that the father and the mother of the applicant should be treated as separate individuals and ^{thus as} it is a case of two displaced persons, ^{his} ~~His~~ sister and himself are justified in requesting ^{separately} for jobs in pursuance of this scheme as per letter dated 1-1-83, ~~but~~ the learned Standing Counsel for the Railways submitted that as both the father and the mother are members of only one family and as they do not constitute two separate families only one member of that family is entitled to a job even though the lands of ^{more than} one member of the family were acquired by the Railways, ^{and} as the intention of the scheme is only to provide job for only one member of the family. We do not propose to ^{decide this point} ~~take into consideration~~ ~~this contention~~ for the disposal of this OA, ^{in the view} which we are taking.

The charge is that the applicant secured a job by concealment/suppression of facts. As we have already observed, the application as adopted by the applicant, even if it is a case where the proforma for such application was not prescribed by the Railways, does not contain any clause as to whether any other member of the family was provided with a job in the Railways under the scheme stipulated in the letter dated 1-2-83. It is not even stated for the respondents that they prescribed any ~~prescribed~~ any particular proforma application for applying for a job under this scheme. In view of the fact that the lands of both the mother and the father were acquired and when the married sister ^{was} to whom a job/given at the instance of the mother of the applicant, ~~the~~ ^{sister of} the applicant cannot be considered as the member of the family of the applicant, according to the applicant it cannot be stated that the applicant had suppressed the facts. ^{The contention that he} He sought for a job under the bonafide impression that under the circumstances ^{stated} cited above, he is eligible to get a job from the Railways under the scheme referred to in the letter dated 1-1-83 on the basis of acquisition of the land of his father when earlier a job was given to his married sister on account of the acquisition of land of his mother, ^{cannot be held as being altogether untenable.} In view of the above circumstances, we feel that the charge of concealment/suppression is not established and hence the impugned order of removal is liable to be set aside. // Generally, when the order of removal is set aside, a direction had to be issued to the effect that the applicant will be entitled to all consequential benefits including back wages, that is wages from the date of removal till the date of reinstatement. But it is necessary to emphasise one fact in this case. When it was brought to the notice of this Tribunal that there ^{have} ~~was~~ some case where more than one member of the family secured job in the Railways in pursuance of the scheme as envisaged in

the letter dated 1-1-83, the Bench of this Tribunal rightly gave a direction to the Railways to initiate action in such cases. But as the applicant herein was not a party to OA 596/87, there was no possibility for him to submit the circumstances under which he also applied for a job even though his married sister was given a job under the scheme. Any how, it is evident from the observations of this Tribunal in OA 596/87 that the respondents should initiate action. We have come to the conclusion after taking all the factors into consideration that the charge of suppression or concealment is not established. So in these circumstances, only 50 per cent of the back wages is awarded.

The concerned authority from among the respondents has to provide the job to the applicant in pursuance of this order by 30th April, 1993 and the applicant has to join within ^{ten days} ~~one week~~ thereafter. If he joins duty accordingly, he will be entitled to 50 per cent of the back wages upto ~~that~~ date from the date of his removal. If he fails to join within 10 days from the date of receipt of order of appointment, he will not be entitled to any back wages for any period. If the applicant was gainfully employed during the period for which he is entitled to 50 per cent of back wages in pursuance of this order, credit has to be given only to ^{that portion of income,} ~~the extent~~ ^{of} 50 percent of back wages during the said period.

if any over

The OA is disposed of with the above directions. The applicant will be entitled to all consequential benefits in regard to all other aspects.

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before concerned authority

The applicant has to submit an affidavit, as to whether he was gainfully employed during the period and if so he has to furnish particulars of the job he has held and the income he has realised.

[Signature]
(V.) Neeladri Rao)
Vice-Chairman

[Signature]
(R. Balasubramanian)
Member (Admn.)

(Dictated in the open court)

[Signature] 8/2/93
Dated 11th February, 1993. Dy. Registrar(J)

NS

Copy to:-

1. Deputy Chief Mechanical Engineer, Wagon Workshop, South Central Railway, Guntapalli.
2. Production Engineer, Wagon Workshop, South Central Railway, Guntapalli.
3. Works Personal Officer, Wagon Workshop, South Central Railway, Guntapalli.
4. One copy to Sri. P.Krishna Reddy, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

[Signature]

O.A. 453/90

TYPED BY *KVS*

COMPARED BY

CHECKED BY *23/12/93*

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO :V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY
:MEMBER(J)

AND

THE HON'BLE MR.

DATED: 11/2/-1993

ORDER/JUDGMENT:

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

O.A. No.

in

453/90

P.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

Allowed

☒ Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

☒ No order as to costs.

pvm

