

(144)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD

D.A.No. 474/90

T.A.No.

Dt. of Decision: 16-6-93.

A.G.Venkatesan & 3 others

Petitioner

Sri G.V.Subba Rao,

Advocate for  
the Petitioner  
(s)

Versus

The Secretary (Establishment), Railway Board,  
Rail Bhavan, New Delhi & 4 others

Respondent.

Sri N.V.Ramana,

Advocate for  
the Respondent  
(s)

CORAM:

THE HON'BLE MR. A.B.GORTHI : MEMBER (A)

THE HON'BLE MR. T.CHANDRASEKHAR REDDY : MEMBER (J)

1. Whether Reporters of local papers may  
be allowed to see the judgment? ✓
2. To be referred to the Reporters 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.)

avl/

*T. C. N.*  
(TCSR)  
M(J)

*I*  
(ABG)  
M(A)

(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

DA 474/90.

Dt. of Order:16-6-93.

1. A.G.Venkatesan
2. G.Venkatesh
3. V.M.Krishnan Unni
4. E.Manavalan

....Applicants

Vs.

1. Secretary (Establishment)  
Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer,  
SC Railway, Secunderabad.
3. Senior Divisional Personnel Officer,  
SC Railway, Guntakal.
4. Chief Operating Superintendent,  
SC Railway, Rail Nilayam, Secunderabad.
5. Sri B.Raja Reddy, Dy.Chief Controller,  
SC Railway, Guntakal.

....Respondents

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Counsel for the Applicants : Sri G.V.Subba Rao

Counsel for the Respondents : Sri N.V.Ramana, SC for Rlys

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CORAM:

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

(Order of the Divn. Bench delivered by Hon'ble  
Sri A.B.Gorthi, Member (A) ).

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The applicants who became eligible for appointment as  
Section Controllers in the grade of Rs.1400--2600 are aggrieved  
by the Respondents' action in denying them such appointment  
and in giving the same to Respondent No.5, who is junior to  
the applicants. Their prayer in this application is for a  
direction to the Respondents to promote the applicants to the

post of Section Controller from the date when their junior, Respondent No.5 was posted as Section Controller. The applicants further pray for all consequential and incidental benefits.

2. The applicants joined the Railways as Assistant Station Masters in the Grade of Rs.330-560. Applicants 1, 2, 3 were allotted to Guntakal Division and Applicant 4 was allotted to Hubli Division. They all appeared for a limited Departmental Competitive Examination and were declared successful. Consequently a panel of such successful candidates ~~was~~ published on 1-10-84. The panel was prepared based on the merit obtained by candidates in the selection. The panel shows the names of the applicants at Sl.Nos.21, 26, 28 and 30, whereas the name of the Respondent No.5 (Sri B.Raja Reddy) figured therein at Sl.No.31. All of <sup>had</sup> them undergone the required training successfully. After their successful completion of training, Respondent No.5, who was junior to the applicants was appointed as Section Controller on 11-3-88 whereas the applicants remained as Assistant Yard Masters. The Grade of Section Controller was Rs.1400-2600 whereas that of A.Y.M. is Rs.1400-2300. Aggrieved by the promotion of Sri B.Raja Reddy <sup>and</sup> denial of the same to the applicants, the applicants represented to the Chief Personnel Officer, S.C.Railway, but without any success.

3. The Respondents in their brief counter affidavit have admitted the fact that the applicants were placed above Respondent No.5 in the merit list for selection for appointment as Traffic Apprentices through Limited Departmental Competitive

Examination. However, as Respondent No.5 secured higher percentage of marks on the completion of training in the Zonal Training School, he was considered to be senior to the applicants and was appointed as Section Controller. Vide Office Memorandum dt.10-4-90 issued by the Chief Personnel Officer, Headquarters, South Central Railway, the seniority of Traffic Apprentices (Departmental quota) should be fixed based on their position assigned in the original selection panel i.e. when they were originally selected through the Limited Departmental Competitive Examination. In view of rule position, the respondents <sup>noticed</sup> ~~state~~, that the promotion of Sri B.Raja Reddy (Respondent No.5) was erroneous and tried to rectify the mistake. In the meantime Respondent No.5 approached the Tribunal (Hyderabad Bench) in OA 183/88. The Tribunal directed that the representation of Sri B.Raja Reddy, which was then pending, should be disposed of by the competent authority. Consequently the competent authority decided to continue the Respondent No.5 as Section Controller since he had by then continuously worked as Section Controller right from 1987 and gained valuable experience and knowledge. The <sup>in the</sup> counter Respondents/further brought out that the Respondent No.5 became eligible for promotion to the post of Dy.Chief Controller in the Grade of Rs.2000-3200 and was promoted to that post on 4-5-90.

4. The main contention raised by Sri G.V.Subba Rao, learned counsel for the applicants is that the Respondents were not right in treating the Respondent No.5 as senior to the applicants. In view of letter No.P/TRG/563/Tpc APP dt.30-7-84 referred to in their communication of Chief Personnel Officer,

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Headquarters, S.C.Railway dt.10-4-90, the seniority of Traffic Apprentices (Departmental Quota) should be fixed not on the merit list prepared after successful completion of training at the Zonal Training school, but on the basis of the merit position assigned to them when they were actually selected through the Limited Departmental Competetive Examination. This position is accepted by the Respondents as well, as is apparent from the counter affidavit.

5. A similar matter had come-up for consideration in OA 1567/88 (f) before the Bangalore Bench of the Tribunal. The facts in that case are almost similar to the facts in the present application before us. The Bangalore Bench relied on an Office Memorandum dt.12-11-84. From the said O.M. the Bangalore Bench concluded that the seniority of the Traffic Apprentices had to be preserved in accordance with the initial panel seniority and that the merit position obtained on successful completion of the Training cannot be made <sup>the</sup> basis for re-fixing the seniority. It was further held that so long as a candidate satisfactorily completed the prescribed course of training, the original seniority as reflected in the merit list prepared after the Limited Departmental Competetive Examination would continue to be effective.

6. In view of what has been stated above it is apparent that the applicants made out a case in their favour and that the Respondents were not justified in promoting the Respondent No.5 by ignoring the claims of the applicants. The application is

Copy to:-

1. Secretary (Establishment) Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer, South Central Railway, Sec'bad.
3. Senior Divisional Personnel Officer, South Central Railway, Guntakal.
4. Chief Operating Superintendent, South Central Railway, Rail Nilayam, Secunderabad.
5. Sr. B. Raja Reddy, Dy. Chief Controller, South Central Railway, Guntakal.
6. One copy to Sri. G.V. Subba Rao, advocate, CAT, Hyd.
7. One copy to Sri. N.V. Ramana, SC for Rlys, CAT, Hyd.
8. One copy to Deputy Registrar (Judl.), CAT, Hyd.
9. One copy to Library, CAT, Hyd.
10. Copy to All Benches & Reporters as per standard list of CAT, Hyd.
11. One spare copy.

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therefore allowed with the following directions to the Respondents:-

- (i) the Respondents shall allot the applicants to the cadre of Section Controller with effect from a date when their junior (Respondent No.5) was allotted to that cadre;
- (ii) seniority of the applicants as given in Annexure R-II to the Respondents counter affidavit will be kept intact for future career advancement of the applicants;
- (iii) if the applicants became due for promotion in the meantime such promotion shall be given to them on notional basis if they are found fit. Applicants will not be entitled to arrears of emoluments on this account.
- (iv) the Respondents shall comply with the above directions within a period of four months from the date of communication of this order.

7. The application is allowed in the above terms with no order as to costs.

*T. Chandrasekhara Reddy*  
(T. CHANDRASEKHAR REDDY)  
Member (J)

*A. B. Gorthi*  
(A. B. GORTHI)  
Member (A)

Dated: 16th June, 1993.  
Dictated in Open Court

*8/22/93*  
*Deputy Registrar (Judl.)*

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contd. --- 6/---

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

14 23

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

AND

THE HON'BLE MR. A. B. GORTY : MEMBER (AD)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY  
MEMBER (J)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated : 16/6/1993

ORDER/JUDGMENT:

Fotyping

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

in

O.A.No.

474/90.

T.A.No.

(w.p.)

Admitted and Interim directions  
issued

OP Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/ Ordered

No order as to costs.

Central Administrative Tribunal  
DESPATCH  
21 JUL 1993  
HYDERABAD BENCH.

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