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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.490/90.

Date of Judgment 9.4.1991.

G.Prabhakara Rao

.. Applicant

Vs.

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

2. The Deputy Chief  
Mechanical Engineer,  
South Central Railway,  
Wagon Workshop,  
Guntupalli,  
Krishna District.

3. The Workshop Personnel Officer,  
Wagon Workshop,  
South Central Railway,  
Guntupalli,  
Krishna District.

.. Respondents

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Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.R.Devaraj,  
SC for Railways

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

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

[ Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn) ]

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This application has been filed by Shri G.Prabhakar  
Rao against the Chief Personnel Officer, South Central  
Railway, Secunderabad and 2 others under section 19 of t-  
Administrative Tribunals Act, 1985.

2. The applicant was due for promotion as Dy. S.S.

w.e.f. 1.1.84 under the restructuring scheme. He was not  
promoted. Along with another person Shri K.V.RamanaMurthy

he filed W.P.No.5306/85 in the High Court of Andhra Pradesh which was later disposed of by this Tribunal as T.A.No.167/86 in which this Tribunal held that the adverse remarks contained in the confidential report for 1983-84 and against which an appeal was pending was not to be taken into account. The Tribunal therefore directed the respondents to convene the selection committee afresh to consider the case of the applicant ignoring the remarks for the year ending 31.3.84. By the time the order was pronounced in the T.A. on 11.7.89, one of the applicants therein Shri K.V.Ramana Murthy had already been promoted and the order was confined only to the Applicant No.2 therein viz: Shri G.Prabhakara Rao, who is the applicant before us now. It is stated that in pursuance of the directions of the Tribunal the respondents held a fresh selection this time taking into account the confidential reports for the years ending 31.3.81, 31.3.82 and 31.3.83 and still held that the applicant was not fit for promotion. The applicant represented against this and not finding any success he has approached the Tribunal. He has prayed that he be promoted w.e.f. 1.1.84 like the others.

3. The respondents oppose the prayer. It is contended that according to rules 3 years' reports have to be gone into and since the Tribunal had ordered that the adverse comments in the confidential report for 1983-84 should not be taken into account they had disregarded that and instead taken the confidential report for 1980-81 to make up the 3 years report. It is their contention that the applicant was still not considered fit for promotion.

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4. We have examined the case and heard the learned counsels for the applicant and the respondents. One of the grounds on which the applicant relies is that when the Tribunal had ordered that the adverse comments contained in the confidential report for 1983-84 were to be ignored the respondents should have based their selection only on the remaining 2 years viz: 1981-82 and 1982-83. It is his case that though the 1981-82 report was not good since the 1982-83 report was good he should be selected. On the other hand the respondents contend that according to rules they should have 3 years reports and since the 1983-84 report was to be ignored they have taken into account the 1980-81 report. We agree with the respondents taking 3 years reports. When there are only two reports and if there is a difference as in this case the final selection becomes impossible. ~~whereas~~ By taking one more report the decision could be more easily taken. Moreover, this Tribunal did not direct the respondents to go ahead only on the remaining two reports. All that they directed was that a fresh selection committee should consider the case of the applicant ignoring the remarks for the year ending 1983-84. It was open to the respondents to choose another preceding report and decide the case.

5. We have also gone through the records of the Railways. Pursuant to the direction given by the Tribunal in the T.A. a new selection was conducted on 15.9.89. The committee observed that in the reports for 1980-81 and 1982-83 the applicant was considered fit for promotion

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whereas in the report for 1981-82 he was not considered fit for promotion. However, not stopping at this they had dug into his service records <sup>(other than Annual Confidential Reports)</sup> and found that he had been censured earlier and taking all the facts into consideration the committee did not consider the applicant suitable for promotion w.e.f. 1.1.84. If he had been censured or had undergone punishments, these should <sup>have been</sup> reflected in his confidential reports and in the final recommendation whether he was fit or not fit for promotion. The committee had observed that in 2 out of the 3 reports he had been considered fit for promotion. The applicant had also cited the cases of 5 other officials who had been promoted notwithstanding similar or worse reports as the applicant. We have seen the records pertaining to their promotions also and find that in the case of 3 persons they were considered fit for all the 3 years and, therefore, their cases <sup>are</sup> ~~is~~ not comparable to the applicant. In one case there were 2 reports favourable to the candidate and one against him and that person has also been promoted. As regards Shri K.V.Ramana Murthy, who teamed up with the applicant in the T.A., in the first instance, his position was the same as that of the applicant in so far as the confidential reports were concerned. Subsequently, however, his position had been retrieved by the concerned authorities leaving the applicant <sup>alone</sup> in the lurch. We, therefore, feel that the applicant whose case had been

To

1. The Chief Personnel Officer, S.C.Railway Secunderabad.
2. The Deputy Chief Mechanical Engineer,  
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Guntupalli, Krishna Dist.
3. The Workshop Personnel Officer,  
Wagon Workshop, S.C.Railway,  
Guntupalli, Krishna Dist.
4. One copy to Mr.F.Krishna Reddy, Advocate, CAT.Hyd.Bench.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.Bench.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One copy to Hon'ble Mr.R.Balasubramanian, Member(A)CAT.Hyd.
- 8 Sri Sanjeev Malhotra, Managing Editor, All India Services Law Journal,  
22, Tagore Park, New Model Town, New Delhi-9.
- 9 The Editor, Kerala Law Times, High Court Road, Ernakulam, Cochin-602031.
- 10 M/s. Eastern Book Company, 34, Lalbagh, Lucknow.
- 11 M/s. Delhi Law Times, 5355, Jawaharnagar, Kolhapur Road, Delhi-7.
- 12 Sri Hasin Ahmad, Spl. Representative Reporter, A.I.R. Ltd, No. 21-1-1964&1965,  
Gandhi Bazar, Opp. High Court Bar Association, Hyderabad.
- 13 The Administrative Tribunal Reporter, Bhagat Singh Market, 90, New Delhi-11  
110001.
- 14 Sri KBS Sarma, General Secretary, All India Equal Rights Association,  
C-58, HUDA Residential Complex, Vanasthalipuram, Hyderabad.
- 15 The Dy. Registrar(J), Central Admn, Tribunal, Hyderabad Bench, Hyderabad.
- 16 One copy to Library, CAT, Hyderabad Bench, Hyderabad.
- 18 T.T.O.. Spare copies.

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Smt. Jagat

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reviewed and in whose case 2 out of the 3 reports are favourable to him, his case for promotion w.e.f. 1.1.84 should not be ignored. As regards the contention of the applicant that he secured first rank in the subsequent written and viva-voce test in 1988 and, therefore, should be considered for promotion w.e.f. 1.1.84, we do not agree with this contention because his subsequent performance in the written and viva-voce test had nothing to do with the promotion w.e.f. 1.1.84 based on seniority and suitability at that time.

6. As stated earlier by us, we feel that since in the review selection 2 out of the 3 reports are favourable to him and particularly when Shri K.V.Ramana Murthy had already been promoted the applicant should also be promoted w.e.f. 1.1.84. We accordingly direct the respondents to promote the applicant from 1.1.84 and give him all the consequential benefits thereof. There is no order as to costs.

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MS

( J.Narasimha Murthy )  
Member(Judl).

R. Balasubramanian  
( R.Balasubramanian )  
Member(Admn),

Dated

9<sup>th</sup> April 91

Deputy Registrar(Judl)

10/4/91

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TYPED BY

CHECKED BY

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10/4/91  
COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD

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

THE HON'BLE MR. D. SURYA RAO: M(J)  
AND

THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)  
AND

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

DATED: 9 4-1991.

ORDER / JUDGMENT.

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

in

T.A. No.

W.P. No.

O.A. No.

490/90

Admitted and Interim directions  
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order.

