

26/26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A. No. 511/90

Date of Order: 14th June, 1993

Between

Shri T. Hanumantha Rao

... Applicant

and

1. Chief Personnel Officer,
South Central Railway,
Secunderabad and another
2. Senior Divisional Personnel Officer (BG)
South Central Railway, Secunderabad ... Respondents
Counsel for the Applicant :: Mr V. Krishna Rao

Counsel for the Respondents :: Mr Jelli Siddaiah
SC for Rlys.

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER (ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

(Order of the Division Bench delivered by

Hon'ble Shri A.B. Gorthi, Member (Admn)

The applicant herein, who was promoted to the post of Senior Clerk, ~~on 4.2.1984~~, was ~~recruited~~ as Junior Clerk w.e.f. 5.2.1988. Aggrieved by the same, he has represented to the authorities concerned, who, having examined the representations of the applicant, turned it down vide orders dated 26.8.1988. The relief sought by him in this application is a direction to the respondents to treat the services of the applicant in the Grade of Junior Clerk, as regular from 16.11.1972 and to grant him consequential promotions.

2. The applicant was initially appointed as Gangman on 20.4.1959 in South Central Railway. He was subsequently promoted as Assistant Time Keeper and thereafter, as an adhoc junior clerk in the pay scale of Rs.110-180 under Permanent Way Inspector, Kazipet with effect from 26.11.1968. The post of Assistant Time Keeper was upgraded to the grade of Rs.260-400 with effect from 26.10.1972. Subsequently, the applicant was promoted to the post of Senior Clerk on 4.2.1984 and he continued to serve in the said post till 5.2.1988, the date on which he was reverted to the post of Junior Clerk. The contention of the applicant is, that, since he was working as Junior Clerk from 16.11.1972, the respondents ought to have considered his case for regularisation. The applicant has cited the case of one Sri Vittal Kuppuswamy, who was similarly promoted to the post of Senior Clerk but, has not been reverted.

3. The respondents in their reply affidavit have clarified that the post of Assistant Time Keeper, Material Checker and Ballast Checker in the grade of Rs.105-135 in the Engineering Department were then filled by selection from Class IV employees such as Gangmen and Khalasis, having minimum 5 years service. The applicant, who was a Gangman, was selected to the post of Assistant Time Keeper/Material Checker and was posted as Material Checker with effect from 30.3.1965. His Avenue for promotion is as Time Keeper/Clerk in the grade of Rs.110-180 against promotional quota. In the year 1970,

the post of Assistant Time Keepers in the grade of Rs.105-135, were upgraded to the scale of Rs.110-180. The post of Time Keeper/Clerk in the scale of Rs.110-180, ^{was} ~~is~~ ~~ought~~ to be filled by direct recruitment (66.2/3%) and by promotion (33.1/3%). The applicant had appeared for selection against promotional quota in the year 1972 and 1975, but was not selected for promotion. On the other hand, ^{the cases of} ~~certain other~~ individuals like Sri Vittal Kuppuswamy and K.P.Balasubramaniam were altogether different, as they were regularly designated as Material Checkers with effect from 1.10.1972. The respondents, however have stated in their counter affidavit, that certain clarifications were sought from Headquarters with regard to the conducting of the selection to the erstwhile seniors of the adhoc clerks and necessary action would be taken on receipt of a reply from Headquarters.

4. The sharp question that has been raised for our consideration is, whether the applicant is entitled to be retained in the promotional post of Senior Clerk ~~purely~~, ^{merely} & on account of the fact, that he continued to perform duties in that post for a period of almost 4 years. Admittedly, the applicant was promoted to the post of Senior Clerk on 4.2.1984 purely on adhoc basis. From the respondents' reply it is apparent that, had the applicant qualified ~~in~~ the selection test held either in 1972 or in 1975, he would not have been reverted to the post of Junior Clerk as has been done. It is well settled, that an adhoc employee has no prescriptive right to hold that post for ever and that, he has to make room for

1. ~~to~~ regularly selected candidates as and when they become available. In view of this, we find no merits in this application. Before dismissing the same, we would however, like to observe that it will be open to the respondents to reconsider the case of the applicant, in accordance with the statement made by them in para 5 of the Counter affidavit dated 28.1.1991. It is also open to them to give a fresh opportunity to the applicant to appear for the selection test, if he is otherwise, eligible for the same.

5. With the above observations, the OA is dismissed. There shall be no orders as to costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member(Judl.)

Anurag
(A.B. GORIYHI)
Member(Admn)

Dated: 14th June, 1993

(Dictated in the Open Court)

mvl

8/5/93
Deputy Registrar

To

1. The Chief Personnel Officer,
S.C.Rly. Secunderabad.
2. The Senior Divisional Personnel Officer,
BG Division, S.C.Rly. Secunderabad.
3. One copy to Mr.V.Krishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.J.Siddaiah, SC For Rlys.CAT.Hyd.
5. One copy to Hon'ble Mr.A.B.Gorthy, Member(A) CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

A.B. Roy

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

AND

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

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: *14-6 - 1993*

~~ORDER/JUDGMENT:~~

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

in

O.A. No. *511/90*

T.A. No.

(W.P. No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

