(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.539/90. Date of Judgment 27-6-91

1. R.Kandappa
2. K.Ramamurthy
3. K.Srinivasa Rao
4. M.Selvaraju
5. N.Narasimhulu
6. R.Adikesavulu
7. Ch.Nageswara Rao
8. V.B.Sampath
9. R.Baluswamy
10. M.Lavakumar
11. K.G.Sriramakutty
12. J.A.Jesudass
13. P.Radhakrishna .. Applicants

Vs.

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

2. Dy. Chief Mechanical
Engineer,
Carriage Repair Workshop,
South Central Railway,
Tirupati. .. Respondents

Counsel for the Applicants : Shri V.Krishna Rao

Counsel for the Respondents : Shri N.V.Ramana,
SC for Railways

CORAM:

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

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

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

This application has been filed by Shri R.Kandappa and 12 others under section 19 of the Administrative Tribunals Act, 1985 against the Chief Personnel Officer, South Central Railway, Secunderabad and another.

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2. The applicants have been working in the Carriage Repair Workshop at Tirupati. Vide notification No.P.137/Mech/CRS/TPTY/1 dated 8.1.87 the Chief Personnel Officer, South Central Railway, Secunderabad called for applications from various units to meet the manpower requirements of the Carriage Repair Workshop at Tirupati. Volunteers were required on certain conditions stipulated in the notification. The applicants responded. They were, however, relieved from the parent units at different points of time in view of the requirements of the different units to be different at various times. It is alleged that as a result the seniors who had secured promotions in their units had to join the Carriage Repair Workshop at Tirupati in a lower grade since according to the condition of option they had to opt in the grade in which they were working on 15.11.82. It is also stated that the juniors who had joined the Tirupati Workshop earlier were promoted as semi-skilled, skilled and other higher grades on condition that their promotion will not confer on them any prescriptive right for continuance, seniority, future promotions etc., and that they were liable to be reverted as and when senior optees joined duty in the Carriage Repair Workshop at Tirupati. The juniors had got so many promotions earlier than the seniors joining the Carriage Repair Workshop later and have been drawing higher wages than the seniors. It is alleged that the respondents have not regulated the promotions even after the seniors joined the Carriage Repair Workshop at Tirupati, in terms of the conditions stipulated in the notification dated 8.1.87. The seniors represented but without success. They have prayed that this Tribunal direct the respondents to regulate promotions according to seniority by terminating the adhoc promotions of juniors with the benefit of retrospective promotion, fixation of pay, arrears of wages and other consequential benefits which are due to the applicants.

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3. The application is contested by the respondents. It is admitted that juniors to the applicants who were already in the Carriage Repair Workshop or who had joined earlier are continuing in higher grades on adhoc basis. When the seniors from other units joined later, the respondents could not revert the juniors from higher posts to accommodate the seniors who had joined the Tirupati unit later. This was due to a situation where the Carriage Repair Workshop at Tirupati being a new unit number of posts had been created and they had filled up these posts with the available hands since they did not know exactly when the senior optees would be joining the Carriage Repair Workshop. The respondents were apprehensive that if juniors who had been officiating in higher grades for a long time are reverted simply to meet the conditions they had held out to accommodate the seniors it will lead to industrial unrest and group rivalries. Consultations were held to find a solution to the situation and the Railways had issued instructions in July, 1990. It is contended that with these guidelines the seniority of the seniors would be protected when they get promotion.

4. The respondents have filed an additional counter affidavit in which they have stated that in accordance with the guidelines issued in July, 1990 promotions have been effected. They, however, oppose that the plea of the applicants for fixation of pay and arrears should not be accepted since their seniority in the promoted grade stands protected.

5. We have examined the case and heard the learned counsel for the applicants and the respondents. The Railways laid down certain conditions in the notification dated 8.1.87 and it was in response to this that the applicants opted. Whatever be the reasons, if the respondents depart from these conditions to the disadvantage of those who had applied

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in good faith it is not only bad ~~in~~ administration but also bad in law. If certain seniors could not be relieved earlier it was not due to them but due to administrative exigencies of the respondents and the seniors should not come to grief on this score. We have seen the letter No.P.612/Mech/CRS/TPYS dated 24.7.90. It protects the interests of the senior optees who joined the Carriage Repair Workshop later in terms of seniority but it does not confer on them the other benefits that the seniors ~~had been denied~~ are entitled to. If the respondents were not in a positiom to revert the juniors to accommodate the senior optees who joined later, in spite of having the right to do so because the juniors were only on adhoc promotion, such a situation still should not come in the way of ~~denying~~ giving ~~continuing~~ the senior optees their due right. We, therefore, direct that the respondents should not only protect the seniority in terms of their notification dated 8.1.87 but also confer the financial benefits due to the senior optees. They should, therefore,

(a) treat the senior optees who were promoted later on in the Carriage Repair Workshop at Tirupati as notionally promoted with effect from the dates when the juniors had been promoted. Their pay should be fixed on this notional promotion. However, since they did not actually discharge the higher duties, such senior persons will not be entitled to arrears of pay difference, and

(b) if there are still seniors continuing in lower grades while juniors are continuing to enjoy ~~on~~ adhoc promotion the situation must immediately be rectified by the respondents if need be ~~by~~ by creating supernumerary posts if they do not wish to revert the juniors in higher positions on adhoc basis for long durations.

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6. The above directions shall be carried out by the respondents within a period of three months from the date of receipt of this order. There is no order however as to costs.

(J.Narasimha Murthy)
Member(Judl).

(R.Balasubramanian)
Member(Admn).

Dated 27th June 91

for Deputy Registrar(A)

To

1. The Chief Personnel Officer,
   South Central Railway, Secunderabad.
2. The Deputy Chief Mechanical Engineer,
   Carriage Repair workshop,
   South Central Railway, ~~Secunderabad~~. Tirupati.
3. One copy to Mr.V.Krishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.Bench.
5. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.Bench.
6. One spare copy.

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RVS 4/7/91 (5)

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CHECKED BY RVS APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDRABAD 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: 27-6-1991.

~~ORDER~~/ JUDGMENT.

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

in

T.A.No. W.P.No.

O.A.No. 539/90

Admitted and Interim directions issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A.Ordered/Rejected.

No order as to costs.