

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.543/90

Date of Order: 8.2.1994

BETWEEN :

B.V.Ramana Murthy

.. Applicant.

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1. Union of India Rep. by
Secretary (Establishment)
Railway Board, Rail Bhavan,
New Delhi.
2. The General Manager, S.C.Rly.,
Rail Nilayam, Secunderabad.
3. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad.
4. K.R.Gururaja Rao, AEN/Construction
(Doubling) D.R.M Office Compound
South Central Railway,
Secunderabad - 500 371.
5. Sri V.Krishna Murthy,
AEN/Construction/Survey,
D.R.M. Office Compound,
South Central Railway,
Secunderabad.
6. M.V.Raghunathan,
AEN/General, D.R.M.
Office Compound, South
Central Railway, Hubli.
7. M.Venkateswarlu,
AEN/Construction/Doubling
South Central Railway,
Chittapur.
8. N.K.Gopal Rao
A.I.E., South Central
Railway, Mantralayam Road.
9. H.P.Anantha Swamy,
A.E.N. South Central Railway,
Bidar.
10. P.Kallanna, AEN/Construction/III
South Central Railway ,
Vikarabad.
11. S.Pakirappa,
AEN/Construction,
South Central Railway,
Miryalaguda.

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12. K.Ramachandran, AEN,
Constructions/ Doubling,
South Central Railway,
Sarum, Gulbarga District.
13. S.R.Krishna Murthy,
AEN/RE/STEEL, South
Central Railway,
Vijayawada - 1.
14. H.Mahaboob, AEN/Special Works,
South Central Railway,
Ramagundam.
15. K.S.Reddy, AEN/Construction,
South Central Railway,
Nanded.
16. D.Rama Murthy, AEN, Construction,
D.R.M. Office Compound,
South Central Railway,
Secunderabad.
17. P.Venkateswarlu, AEN, Flashbutt
Welding, South Central Railway,
Moulaali, Hyderabad.
18. A.Ramachander, AEN
Track Budget, 5th Floor,
South Central Railway,
Rail Nilayam, Secunderabad.
19. M.Karibasappa, AIEPSC Concrete
Sleeper Factory, South Central
Railway, Timmaacherla, Guntakal.
20. G.Anjaneyulu, AEN/II, South
Central Railway, Purna, Nanded.
21. P.Hanumantha Rao, AEN/South
Central Railway, Kazipet.

Counsel for the Applicant

Mr. G. V. Subba Rao

Counsel for the Respondents

Mr. D. Gopal Rao

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (Admn.)

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

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J u d g e m e n t

As per Hon'ble Shri A.B.Gorthi : Member (A) X

The grievance of the Applicant is against the selection of Respondents No.4 to 21 and their promotion to the Group 'B' post in the Civil Engineering Department of South Central Railway. The cause of his grievance is that he was unjustly omitted from consideration for the said selection and promotion.

2. The Applicant was initially appointed as Assistant Permanent Way Inspector on 28.12.60 in Vijaywada Division. He was promoted to the post of PWI Gr.III on 30.8.73 and to the post of PWI Gr.II on 6.9.77. While he was working as PWI Gr.II in Sholapur Division, the said Division was transferred to Central Railway w.e.f. 2.10.77. He continued to work in Sholapur Division till he was relieved to join Secunderabad (BG) Division of South Central Railway in 1986. After he joined South Central Railway as a PWI Gr.II he appeared for selection for promotion to the higher post of PWI Gr.I in 1989. Having been declared successful in the selection he was empanelled as PWI Gr.I vide South Central Railway order dt.27.3.89.

3. When the Applicant, after having been relieved from Sholapur Division, joined Secunderabad (BG) Division of South Central Railway, he undertook not to claim seniority over his erstwhile juniors in South Central Railway who were by then promoted to higher grades. Notwithstanding the same he claimed restoration of his original seniority and empanelment and demanded that his name be shown between Shri A.Sathi Raju and

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K.Narasimha Murthy in the integrated seniority list. The said two individuals were promoted to the post of PWI Gr.I in the year 1981 whereas the Applicant was promoted to that grade only in 1989.

4. The Applicant filed O.A.No.21/90 bringing out in detail his grievance with regard to his loss of seniority on his coming over to South Central Railway. Therein also he claimed that his name should have figured in the integrated seniority list below that of Shri A.Sathi Raju and above Shri K.Narasimha Murthy. The O.A. was dismissed by order dt. 31.3.93. In the said judgement it was observed inter alia that the Applicant came over to South Central Railway as PWI Gr.II and that while in Central Railway he had unsuccessfully appeared four times for the selection test for promotion to the post of PWI Gr.I. As the Applicant was, in fact, selected and promoted to the post of PWI Gr.I in 1989 only, his request for seniority at par with his erstwhile colleagues was rejected.

5. We have heard learned counsel for both the parties. Shri G.V.Subba Rao, learned counsel for the Applicant contended that the Applicant was erroneously denied promotion to the Group 'B' post in the Civil Engineering Department of South Central Railway. He, therefore, seeks retrospective promotion of the Applicant and in support of his contention draws our attention to Arun Kumar Chatterjee Vs. South Eastern Railway & Ors. 1985(1) SLR 500, K.N.Mishra & Ors. Vs. Union of India & Ors. ATR 1986(2) CAT 270 and Ramesh Chander Vs. R.S.Gahlewat, SLJ 1992(1) (CAT) 484. He has also drawn our attention to para 28 of the Indian Railway Establishment Manual which is to the effect that the lien of a permanent staff transferred to another Railway

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will be retained by the transferring Railway till he is finally absorbed on the other Railway. We need not here go into these issues because the question of seniority of the Applicant in the cadre of PWI Gr.I stood settled by our judgement in O.A.No.21/90. The non-consideration of the Applicant for his next promotion to the Group 'B' post in the Civil Engineering Department of South Central Railway is not on account of any error but on account of his seniority position as PWI Gr.I. Not only for his promotion to the Group 'B' post but for all his future promotions his seniority will have to reckon as already determined by the Respondents because of our judgement in O.A.No.21/90. In the present O.A. the Applicant could not be given any relief until and unless the question of his seniority as PWI Gr.I is reopened and reconsidered by us. The question for our consideration therefore, is, whether it would be proper for us to reconsider the question of seniority of the Applicant notwithstanding the fact that the same stood determined by our judgement in O.A.No.21/90. In Daryao & Ors. Vs. State of U.P. & Ors. AIR 1961 SC 1457 it was observed inter alia as under:-

"The binding character of judgements pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the administration of justice on which the Constitution lays so much emphasis. On general considerations of public policy there seems to be no reason why the rule of res judicata should be treated as inadmissible or irrelevant in dealing with petitions filed under Art.32 of the Constitution. It is true that the general rule can be invoked only in cases where a dispute between the parties has been referred to a court of competent jurisdiction, there has been a contest between the parties before the court, a fair opportunity has been given to both of them to prove their case, and at the end the court has pronounced

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its judgement or decision. Such a decision pronounced by a court of competent jurisdiction is binding between the parties unless it is modified or reversed by adopting a procedure prescribed by the Constitution.

6. In the case before us the cause of grievance is the same as that in O.A.No.21/90, that is, the seniority of the Applicant in the post of PWI Gr.I. The same is now being agitated for the purpose of his promotion for the next higher Group 'B' post. There can be no doubt that the present O.A. cannot be entertained as it would offend the general principle of res judicata. In this context we may also refer to The State of Uttar Pradesh Vs. Nawab Hussain, 1977(2) SLR 1. Relevant portion from the judgement is reproduced below:-

"The principle of estoppel per res judicata is a rule of evidence. As has been stated in Harginson Vs. Blackburn Borough Council(1) it may be said to be "the broader rule of evidence which prohibits the reassertion of a cause of action". This doctrine is based on two theories (i) the finality and conclusiveness of judicial decisions for the final termination of disputes in the general interest of the community as a matter of public policy, and (ii) the interest of the individual that he should be protected from multiplication of litigation. It therefore serves not only a public but also a private purpose by obstructing the reopening of matters which have once been adjudicated upon. It is thus not permissible to obtain a second judgement for the same civil relief on the same cause of action, for otherwise the spirit of contentiousness may give rise to conflicting judgements of equal authority, lead to multiplicity of actions and bring the administration of justice into disrepute. It is the cause of action which gives rise to an action, and that is why it is necessary for the courts to recognise that a cause of action which results in a judgement must lose its identity and vitality and merge in the judgement when pronounced. It cannot therefore survive the judgement, or give rise to another cause of action on the same facts. This is what is known as the general principle of res judicata."

7. All the relevant aspects of the correctness or otherwise of the seniority of the Applicant as determined by the Respondents were examined at length while disposing of O.A.No.21/90. The same issues cannot, therefore, be re-agitated

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before us by means of the present O.A. notwithstanding the fact that the relief now being sought by the Applicant is his promotion to the next higher appointment to the Group 'B' post in the Civil Engineering Department of South Central Railway. The application is, therefore, dismissed. There shall be no order as to costs.

T. C. R.
(T.Chandrasekhar Reddy
Member(J)).

transcript
(A.B.Gorthi)
Member(A).

Dated: 8 Feb., 1994.

Prsday 11.3.94
Deputy Registrar(Judl.)

br.

Copy to:-

1. Secretary(Establishment), Railway Board, Union of India, Rail Bhavan, New Delhi.
2. The General Manager, S.C.Railway, Railnilayam, Secunderabad.
3. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabād.
4. One copy to Sri. G.V.Subbarao, advocate, CAT, Hyd.
5. One copy to Sri. D.Gopala Rao, SC for Rlys, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.), CAT, Hyd.
7. Copy to All Benches and Reporters as per standard list of CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

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O.A-543/90

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

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

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER
(ADMN)

Dated: 21/1/1994.

ORDER/JUDGMENT:

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

O.A.No.

IN
543/90

T.A.No.

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with Directions

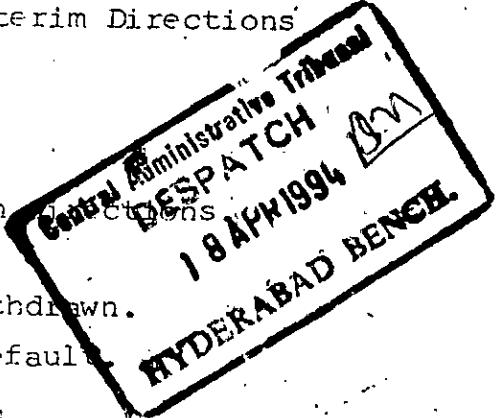
Dismissed.

Dismissed as withdrawn.

Dismissed for Default

Rejected/Ordered.

No order as to costs.



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