

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.928 of 1990

DATE OF JUDGMENT: 15 SEPTEMBER, '91.

BETWEEN:

Mr. R.Muttaiah ..

Applicant

AND

1. The Divisional Railway Manager (BG),
South Central Railway,
Secunderabad.

2. The Sr. Divisional Mechanical Engineer (Diesel),
Diesel Locoshed,
Kazipet, Warangal District.

3. Mr. Kondaiah,
s/o Mr. Veeraiah,
Skilled Carpenter Grade-III,
o/o Sr.DME(Diesel),
Diesel Locoshed,
Kazipet, Warangal Dist. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr. S.Laxma Reddy

COUNSEL FOR THE RESPONDENTS: Mr. J.Siddaiah,
No.141. SC for Railways.

to work as Carpenter Grade-III till the date of issue of the impugned reversion order dated 18.2.1989. By the impugned order dated 18.2.1989, the applicant was reverted as Diesel Khalasi Helper and the 3rd respondent was transferred from the Steam Locoshed, Kazipet with effect from 12.1.1989. Against the impugned order, the applicant made several representations to the 1st respondent and finally on 18.9.1989 and on 13.11.1989 he made representations. The 1st respondent rejected the representations, by his proceedings dated 3.5.1990 stating that the applicant's avenue of promotion is different and he cannot claim as of right any promotion in Ancillary categories like Skilled Carpenter. Aggrieved by the same, the applicant filed this application for the above said relief.

2. The respondents filed a counter with the following contentions:-

The applicant was originally appointed as Yard Porter in Grade Rs.70-85 (AS) in Operating Department on 19.11.1966. He sought transfer to Diesel Loco Shed, Kazipet Junction accepting his seniority at bottom but not on option as stated in the affidavit. He was posted as Diesel Khalasi (later re-designated as Diesel Cleaner) and he reported for duty at Diesel Shed, Kazipet on 3.2.1978 and hence his seniority in

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was transferred to Diesel Locoshed, Kazipet on option and was working there as Diesel Cleaner. The applicant was asked to officiate as Khalasi Helper in the Carpenter Section. In 1983, there was a regular vacancy in Gr.II Carpenter and the applicant was trade tested and promoted to the post of Carpenter Grade-III in the existing vacancy. In 1986, the applicant was trade tested to the post of Carpenter Grade-II but his result was not announced. Instead, Mr. Uppalaiah Rajaiah, Basic Carpenter in the grade of Rs.210-290 working at Steam Locoshed was transferred to Diesel Locoshed and was trade tested for the post of Carpenter Grade-II and promoted to the post of Carpenter Grade-II denying the same to the applicant. Mr. Uppalaiah Rajaiah was promoted as Basic Carpenter at Steam Locoshed, Kazipet on 14.8.1986 i.e., two years after the promotion of the applicant. The applicant was continued as Carpenter Grade-III only. In the meanwhile the applicant was reverted as Khalasi Helper on 15.5.1987 and one Mr. J. Somasundaram, Khalasi Helper at Dornakal was transferred on promotion as Carpenter Skilled Gr.III in the pay scale of Rs.950-1500. The applicant made representations on 16.5.1987 and 11.7.1987. Thereafter, the applicant was promoted to the post of Carpenter Grade-III by an order dated 23.6.1988. He continued

7.11.1983. Later on, the applicant was posted as Skilled Carpenter in the pay scale of Rs.260-400 purely on temporary basis in the exigency of service on 25.8.1984 and continued till 10.5.1987. This was done since no staff from steam organisation was available to fill the vacancy of Carpenter Skilled. Accordingly, the applicant was subjected for trade a test which is/pre-condition for promotion. Thereafter, the applicant was reverted back to his parent cadre w.e.f. 11.5.1987 consequent on posting of a regular incumbent by name Shri Somasundaram from Steam organisation basing on the avenue of promotion. The applicant was promoted on 9.3.1988 as Khālasi Helper in the pay scale of Rs.210-290 w.e.f. 1.1.1984 as per his turn in the seniority unit of Diesel Cadre on proforma basis. In 1988 he was again promoted as Carpenter Skilled in the pay scale of Rs.950-1500 vice Shri Somasundaram, Carpenter Skilled transferred to DKJ as Second Fireman. It was effected in the exigency of service purely on local and on adhoc basis and not on regular basis. Accordingly, the applicant continued in that post till 11.1.1989 and again he was reverted from 12.1.1989 on posting of Shri Kondaiah Veeraiah from Steam organisation on regular basis. One Shri Uppalaiah Rajaiah who was working as basic Carpenter in Steam organisation had become eligible for promotion as Skilled Carpenter

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Diesel Shed, Kazipet is reckoned w.e.f. 3.2.1978. The applicant has to progress in Diesel cadre as Khalasi Helper, Skilled, Fitter, Fitter Grade-II and so on and not in the ancillary categories i.e., S/Writer, Carpenter etc. As per the avenue chart circulated on 12.11.1979, the intake of staff in the ancillary categories of Diesel Shed, Kazipet will have to be made from the respective trades of steam organisation and these staff will seek further promotion in Diesel cadre duly interpolating their names in the seniority units of the respective categories of Diesel Mechanical, Electrical Fitters depending upon the trades they belong i.e., semi-skilled basic. Accordingly, any vacancy in the ancillary trades of Diesel Shed, Kazipet has to be filled by drafting staff from steam cadre which is a separate entity.

3. On 29.9.1983 the applicant requested the administration to promote him ~~as~~ Carpenter Grade-III in the scale of Rs.260-400/RS in place of one Shri L.Narayana, Carpenter Grade-II in the pay scale of Rs.330-480 who was due to retire from service w.e.f. 31.10.1983. Since the applicant was treated as a Diesel Cleaner in the Diesel Shed, Kazipet, and is eligible for promotion as Fitter Grade-III as per his turn, he cannot claim any promotion against the posts in ancillary category like Carpenter etc. Accordingly he was replied on

points are very much correctly maintained when the incumbents are fed from steam organisation to Diesel organisation as per the avenue of promotional channel. Hence, the application is devoid of any merits and it is liable to be dismissed.

4. Shri S.Laxma Reddy, learned counsel for the applicant and Shri J.Siddaiah, learned Standing Counsel for the Respondents/Railways, argued the matter.

5. The applicant was originally appointed as Yard Porter in the grade Rs.70-85(AS) on 19.11.1966. He sought transfer to Diesel Loco Shed, Kazipet Junction and he was posted as Diesel Khalasi and he reported for duty at Kazipet Junction on 3.2.1978. Any vacancy in the ancillary trades of Diesel Shed, Kazipet has to be filled by drafting staff from steam cadre which is a separate ~~xx~~ cadre. The applicant on 29.9.1983 had requested to promote him as Carpenter Grade-II in the pay scale of Rs.260-400 in place of Shri L.Narayana, Carpenter Grade-II in the pay scale of Rs.330-480 who was due to retire from service on 31.10.1983. Since the applicant was treated as a Diesel Cleaner in the Diesel Shed, Kazipet and is eligible for promotion as Fitter Grade-III in scale Rs.260-400, he cannot claim any promotion against the posts in ancillary category

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and he was promoted w.e.f. 1.4.1979. As such on promotion Shri Uppalaiah Rajaiah was allotted to Diesel Shed, Kazipet as per avenue of promotion and subsequently he was promoted as Carpenter Skilled Grade-II as per his turn, whereas the applicant is not eligible for promotion as Carpenter Skilled on regular basis as the same is not his parent line. Hence, the case of the applicant cannot be compared with the case of Shri Uppalaiah Rajaiah. When the applicant represented against his reversion, he was accordingly replied. The promotion of the applicant as Carpenter Skilled was purely on temporary basis in the exigency of service with the condition that it does not confer upon him any prescriptive right for continued officiation or preference over seniors at a later date. As such his reversion when a regular incumbent was available is not illegal and arbitrary. The seniority of the applicant at Diesel Shed, Kazipet cannot be compared with the seniority of Shri Kondaiah (3rd respondent herein) of the Steam organisation since these two seniority units are different. Whenever promotions are ordered in the cadre, roaster points are taken into consideration. Since the applicant is not eligible for promotion as Carpenter as per the avenue of promotional channel, the question of considering him on SC point or otherwise does not arise. The roaster

as Carpenter Skilled. So, the applicant was transferred and posted to Diesel Shed, Kazipet. After the applicant was promoted to the post of Carpenter, he continuously worked as such upto 1989 without any blemish. In 1977 also, the applicant was asked to officiate as Khalasi Helper in the Carpentry Section, and there is a background for treating him as Carpenter from 1977 onwards and with that experience the applicant was put into the Carpentry Section and having continuously worked for a pretty long time upto 1989, the applicant was transferred to Diesel Loco Shed, Kazipet. It is not the case of the respondents that the applicant being an employee working in different trades, he is not able to discharge his duties in the Carpentry Section and the applicant has been in touch with the Carpentry work since 1977 onwards and with that experience, he was taken as Carpenter in 1983 and after performing his duties successfully upto 1989, to transfer the applicant to some other trade on the pretext that the avenue of promotion for the applicant is something else, ^{and} so he is transfer^{red} to the Diesel Shed, Kazipet, is not proper at this stage. There are no grounds also to transfer the applicant ^{now} as Grade-III Carpenter from Steam organisation to the Diesel Shed, Kazipet, as Khalasi Helper. So, the orders of the respondents reverting the applicant to the post of Khalasi Helper are not supported by any principle and having slept over the matter for a petty

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hence like Carpenter etc., and his request was not accepted. In 1977, the applicant was asked to officiate as Khalasi Helper in the Carpenter Section and the said Section was newly established in the year 1977. In the year 1983, there was a regular vacancy in Grade-II Carpenter and the applicant was trade tested for the post on promotion and he was promoted regularly by an order of the 1st respondent dated 25.8.1988. The applicant in 1986 was further trade tested for promotion to the post of Carpenter Grade-II but his result was not announced. One Mr. Uppalaiah Rajaiah, Basic Carpenter in the grade of Rs.210-290 working at Steam Locoshed was transferred to diesel Locoshed and he was trade tested Carpenter for Grade-II and thereafter promoted as Carpenter Grade-II, with effect from 14.8.1986 i.e., 2 years after the applicant's promotion.

6. In this case, the applicant has been continuously working as Carpenter from 1983 onwards till 12.1.1989. He was trade tested and promoted to the post of Carpenter by the respondents. After a long lapse of time, the respondents reverted him as Diesel Khalasi Helper. The reasons given by the respondents for reverting the applicant are that the applicant belongs to a different cadre and his avenue of promotion it is not in the line of Carpentry but in Diesel cadre and so he is not entitled to get his promotion or continue

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Copy to :-

1. The Divisional Railway Manager (EG),
South Central Railway, Secunderabad.
2. The Senior Divisional Mechanical Engineer (Diesel),
Diesel Loco Shed,
Kazipet, Warangal District.
3. One copy to Shri S. Lakshma Reddy, Advocates Association
High Court of A.P. Hyderabad.
4. One copy to Shri. J. Siddiah, Addl. SC for Railways, C.A.T.
Hyderabad.
5. One spare copy.

RSM

18/9/51

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long time, the applicant was asked to report to Diesel Shed, Kazipet as Khalasi Helper which is not proper on the part of the respondents. The applicant put up service in Carpentry cadre right from 1977 onwards and so he is entitled to continue in the same trade and he is also entitled for his promotion in the same category and at this stage it is not proper on the part of the respondents to transfer him to some other organisation. So, we quash the impugned proceedings No.CP/673/DSL/81, dated 3.5.1990 passed by the 1st respondent confirming the order of reversion passed in proceedings dated 18.2.1989 passed by the 2nd respondent, reverting the applicant to the post of Khalasi Helper with effect from 12.1.1989, as illegal and without jurisdiction, and consequently we direct the respondents to promote the applicant to the post of Carpenter Grade-III with all consequential benefits. We direct the respondents to implement this order within a period of two months from the date of receipt of this order.

7. The application is accordingly allowed.
There is no order as to costs.

MS

(J.NARASIMHA MURTHY)
Member (Judl.)

R.BALASUBRAMANIAN
Member (Admn.)

Dated: 16/11/September, 1991.

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Registrar

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0. A. 928/1990

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

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

AND

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

DATED: 16/9/

ORDER/ JUDGMENT

M.A./R.A./C.A. NO.

IN

D.A. No.

928/1990. ✓

T.A. No.

(W.P. No.)

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.

16/9/1991