

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. No. 937/90.

Dt. of Decision : 24.12.93

Sri. R. Ram Singh

. . Applicant.

Vs

1. Union of India per General Manager
South Central Railway,
Rail Nilayam, Secunderabad.
2. Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad.
3. Senior Divisional Signal and
Telecommunications Engineer
(Maintenance) (Broad Gauge),
South Central Railway,
Secunderabad.

. . Respondents.

Counsel for the Applicant : Mr. G. Ramachandra Rao

Counsel for the Respondents : Mr. D. Gopal Rao,
Sc for Railways,

CORAM:

THE HON'BLE JUSTICE SHRI. V. NEELADRI RAO : VICE CHAIRMAN

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

45

O.A.No.937/90.

Date: 24.12.1993.

J U D G M E N T

{ as per Hon'ble Mr.Justice V.Neeladri Rao, Vice-Chairman }

The applicant is now working as S.P.T.^{17.}Inspector (Self Printing Ticket ^{Machine} Inspector) on adhoc basis. This O.A. was filed praying for a direction to the respondents to regularise the services of the applicant in the post of S.P.T.Inspector with effect from 1.12.1983 with all consequential benefits including promotion to the next higher post and arrears of pay.

2. The facts which are relevant are briefly as under:

While the applicant was working as Khalasi in Signal and Telecommunications Department, he volunteered for the post of Khalasi at the Self Printing Ticket Machine and then he was appointed to that post on 10.5.1965 for maintenance of Self Printing Ticket Machine. Later, he got various promotions and by 1980 he was senior-most Mechanic in the Section. Then ~~the~~ post of S.P.T. Inspector was created on 7.8.1980. The applicant, being the senior-most, was promoted as S.P.T. Inspector on adhoc basis. The said post was made permanent on 1.4.1983 ^{even} and ^{today} till ~~now~~ the applicant is working in the same post. Till now, the Recruitment Rules were not formulated for filling up the post of S.P.T.Inspector. By proceedings No.P/547694/VI/ Singh dt. 19.2.1983 the Senior Mechanics at the S.P.T. Section were also made eligible for promotion to the post of Telecom Inspector Gr.III. Thereafter, the juniors of the applicant who were working as Senior Mechanics were ^{also to be} selected for appearing for the test which is necessary for eligibility for promotion to the Telecom Inspector Gr.III. But the

...3/-

20/12/93
X

: 3 :

applicant was not ^{advised} ~~selected~~ for the same. Hence, he had not appeared for the said test at any time and he was not considered for selection for promotion to the post of Telecom Inspector Gr.III while his juniors who were working as Senior Mechanics at S.P.T.M. were considered for the said selection and promoted to the post of Telecom Inspector Gr.III.

(b) When the applicant made a representation dt. 6.1.1987 praying for regularisation of his services as S.P.T. Inspector, he was informed by proceedings dt. 18.8.1987 that he had to appear for ~~for~~ selection for promotion to the post of Telecom Inspector Gr.III and ^{hence} ~~he~~ he had to appear for the written examination and viva-voce prescribed for the same.

3. It is contended for the applicant that he cannot be compelled to appear for the written examinations and viva-voce intended for promotion to the post of Telecom Inspector Gr.III when he was merely requesting for regularisation of his services as Inspector S.P.T.M. As already observed, there are no rules for filling up the post of S.P.T. Inspector. Thus, it means that there is no rule to the effect that for being eligible for promotion to the post of S.P.T.M Inspector the employee had to pass the written ^{test} ~~text~~ and ^{to} ~~to~~ qualify ⁱⁿ viva-voce prescribed for promotion to the post of Telecom-Inspector Gr.III. It may be that Senior Mechanics at S.P.T.M. Section are eligible for promotion, both to the post of Telecom Inspector Gr.III and also S.P.T. Inspector. But, thereby it cannot be inferred that whatever procedure that is adopted for promotion to the post of Telecom Inspector Gr.III had to be followed for promotion to the post of S.P.T.

th

32/10/87

Inspector. Hence, the plea for the respondents that unless the applicant passes the test prescribed and qualify in the viva-voce prescribed for promotion to the post of Telecom Inspector Gr.III, ^{he cannot be considered} for regularisation of the services of the applicant as Inspector (S.P.T.M.), ^{is not tenable -}

4. It is not ^{unusual} ~~unreasonable~~ that even before formulation of recruitment rules, ^{it may be necessary} to have recruitment of the employees to the various cadres ~~xxx~~ to meet the exigencies. Hence, some temporary arrangements will be made at the time of initial recruitment. Generally, when recruitment rules are formulated in regard to such posts there will be a separate provision for regularisation of the services of those who were recruited before the recruitment rules had come into effect. It is generally called as a provision in regard to the initial recruitment.

5. Though the post of Inspector (S.P.T.M.) was made permanent more than a decade back, the rules are not yet framed. The applicant is working in that post from the last 13 years. It is doubtful whether the recruitment rules in regard to the said post could be made within two years i.e. before retirement of the applicant. It is also ^{generally held} ~~not considered as an established principle~~ that whenever it is necessary to continue the post for long period, the said post had to be ^{made permanent} ~~continued~~ and the services of the incumbent had to be regularised. In this case, though the post of Inspector (S.P.T.M.) was made permanent the services of the applicant in that post are not regularised. It is not the case of the respondents that eventhough there are no rules, they intend to conduct a ^{test} ~~test~~ depending upon

...5/-

40222
91

for regularisation
the duties to be discharged as Inspector S.P.T.M. When
the applicant had already worked for 13 years in regard
to such post and when it is not stated for the respondents
that the services of the applicant in the said post are
not satisfactory, it is proper to give a direction to the
respondents to regularise the services of the applicant
for the said post of Inspector S.P.T.M. *especially when* ~~for~~ he already
established that he ~~could~~ satisfactorily discharge the
duties of the said post and shouldered the responsibilities
of the same. In such a case there will be no purpose in
asking the applicant to appear ~~to~~ *for* some test which may be
relevant for the said post and which would be naturally
prescribed if Recruitment Rules are to be framed.

6. Thus, we feel it ~~is~~ a just case where a direction
has to be given to the respondents to regularise the
services of the applicant in the post of Inspector (S.P.T.M.)
without directing him to appear for the ~~a~~ test prescribed
and viva-voce specified for promotion to the post of Telecom
Inspector Gr.III or any other test.

7. When there is no promotional avenue from the post of
S.P.T. Inspector the question of giving a direction to the
respondents to consider him for promotion from the said
post does not arise. But, if and when the post is going
to be upgraded or if any avenue of promotion is going to be
created, then, of-course, the case of the applicant has to be
considered in accordance with rules/instructions.

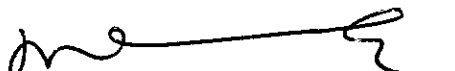
8. The applicant will not be entitled to additional
emoluments by regularising his services as Inspector(S.P.T.M.).
As such the question of payment of difference *of pay,* and thereby
arrears ~~do~~ *does* not arise.

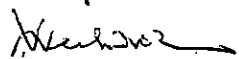
th

5/10/97

9. In the result, the respondents are directed to regularise the services of the applicant as Inspector (S.P.T.M.) with effect from the date his junior who worked as Senior Mechanic in S.P.T.M. section had been promoted as Telecom Inspector Gr.III. We make it clear that thereby it cannot be stated that there will be combined seniority of Telecom Inspector Gr.III and Inspector (S.P.T.M.).

10. The O.A. is ordered accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice-Chairman

Dated 24th December, 1993.
Dictated in the open court.


Deputy Registrar (Judl.)

Grh.

Copy to:-

1. General Manager, South Central Railway, Rail Nilayam, Sec-bad.
2. Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. Senior Divisional Signal and Telecommunications Engineer (Maintenance) (Broad Gauge), South Central Railway, Secunderabad.
4. One copy to Sri. G. Ramachandra Rao, advocate, CAT, Hyd.
5. One copy to Sri. D. Gopal Rao, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

6/12/93
PAC
7/28/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

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

AND

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

Dated: 24/11/1993

ORDER/JUDGMENT:

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

O.A.No.

in

937/90

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

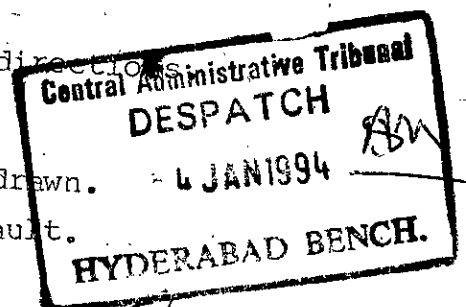
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.



28/12/93