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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA.No. 949/90

Dt. of Order: 17-1-1994.

1. A. Venkat Rao
2. Ch. Venkateswar Rao
3. Sk. Mameesh Ali
4. Sk. Abdul Sattar
5. Abdullah Baig
6. Md. Mohiddin Ali
7. P. Sunder Rao
8. M. Dasaradharamaiah
9. Padmanabham

10. N. Hanumantha Rao
11. M. Anjaiah
12. B. Joga Rao
13. Sk. Ghousie Mohhiddin
14. P. Nagaiah
15. G. Subba Rao
16. S. Bhaskar Rao

.... Applicants

vs.

1. Union of India rep by its Secretary, Ministry of Railways, Railway Board, New Delhi.
2. General Manager, S.C.Rlys, Secunderabad.
3. Chief Personnel Officer, S.C.Rlys, Secunderabad.
4. Dy. Chief Mechanical Engineer, Wagon Workshop, S.C.Rlys. Guntupally Krishna Dist.
5. A. Srinivasa Rao
6. P. Shoury Kumar.

.... Respondents.

Counsel for the Applicants: Shri V. Rama Rao

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

CORAM:

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

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

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Judgement

(As per the Hon'ble Sri V. Neeladri Rao, Vice Chairman)

The Guntupally Wagon Workshop was established in 1974. For the exigencies of service a number of notifications were issued from 1974 to 1981 calling for volunteers working in the various units/divisions/workshops in S.C.Railway to join in this Wagon Workshop. The applicants, R5, and R-6 herein volunteered in pursuance of the notification issued in 1979 and 1980 to join this Wagon Workshop. The applicants and R-5 herein were working as Khalasis in their parent units by the time they were absorbed in this Wagon Workshop. R-6 herein was working in Semi-skilled cadre in his parent unit by the time he worked in this Workshop.

2. The notifications issued from 3-11-79 calling for volunteers to join in this Wagon Workshop lays down that such volunteers will be "assigned due seniority based on their date of entry into scale in which they are absorbed in Guntupally Workshop". As the applicants joined as Khalasis even earlier to the date on which R-5 joined as Khalasi, The applicants were shown as seniors to R-5 in the category of Khalasi after they joined in this Wagon Workshop. R-6 had become semi-skilled in the parent unit on 10-2-81 and he was absorbed in the said category in this Wagon Workshop when he joined in 1983. When the applicants and R-5 were promoted to the category of semi-skilled in this Wagon Workshop w.e.f. 16-7-81 they were shown as juniors to R-6 herein in the category of semi-skilled.

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3. By proceedings dt.22-3-83 of the parent unit of R-5 herein he was promoted to the category of semi-skilled w.e.f. 1-6-79. On that basis, he claimed seniority ~~who were~~ over R-6 herein in the category of semi-skilled in this wagon Workshop. When the official respondents had not granted him seniority over R-6, he filed O.A.388/87 on the file of this Bench claiming seniority over R-6 herein in the category of semi-skilled. The said O.A. was allowed. Thereupon, the proposed revision of seniority of R-5 herein ~~who are~~ ^{over} R-6 was published and circulated on 10-1-89 and when no objections were received in regard to the same, it was regularised vide Lr.No.GR/P.614/ OA 388/87, dt. 3-2-89. By that date, R-5, R-6 and applicant herein were working as Skilled Gr.I in this Wagon Workshop. On the basis of the revised seniority, R-5 promotion herein, his ~~to~~ ^{over} to the category of Skilled Gr.I was advanced to 1-1-84. Thereupon, the applicants also made a representation requesting the official respondents to advance the date of their promotion to the post of Skilled Gr.I to 1-1-84 by contending that all along R-5 herein was shown as their junior~~s~~ in the various categories.

4. When the said request of the applicants was not acceded to, this OA was filed praying for declaration that the action of the respondents in granting seniority to R-5 and R-6 herein, over and above the applicants and further granting promotion of R-5 to the post of Highly Skilled Gr.I Fitter with retrospective effect i.e. from 1-1-84 ignoring the claims of the applicants as arbitrary and illegal and for consequential direction to the official respondents to restore seniority position of the applicants over R-5, as maintained in the earlier seniority list, dt.1-8-86 and 20-12-88 with all consequential benefits

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including promotion in HSK Gr.I w.e.f. 1-1-84. The applicants also prayed for declaration that the judgement in OA No.388/87 on the file of this Tribunal is not binding on ^{them} the applicants.

5. It is evident from the pleadings that the seniority in the category of Semi-skilled Gr.I of R-5 above R-6 herein was fixed in pursuance of the Judgement in O.A. 388/87 and consequently R-5 was shown as senior to R-6 in the higher category i.e. HSK-Gr.II and HSK-Gr.I in view of their promotions to above two categories. If the applicants are aggrieved by the order in OA 388/87 on the file of this Tribunal their remedy is only to prefer a Revision Petition against OA 388/87, even though they are not parties to the same, as held by the Bangalore Bench of this Tribunal in ATR 1987 (1) CAT 612. Thus, this OA in regard to the prayer for declaration that the OA 388/87 is not binding on the applicants is liable to be dismissed.

5. It is manifest from the notifications issued from 1979 calling for volunteers to join in this Wagon Workshop that such volunteers will be assigned due seniority based on the date of entry into scale in which they are absorbed into this Wagon Workshop. Of course, R-5 herein joined this Wagon Workshop ^{when he} ~~was~~ was working as Khalasi only in his parent unit. But, in view of the proceedings issued by his parent unit, after he was absorbed in this Guntupally Wagon Workshop, ~~he~~ whereby he was given retrospective promotion from 1979 to the the post of semi-skilled. As such, it was held by the Bench of this Tribunal in OA 388/87 that the R-5 herein

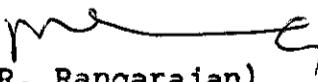
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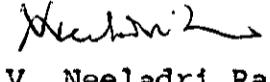
who was one of the applicants in OA 388/87 should be deemed to have been absorbed in this Guntupally Wagon Workshop in the category of semi-skilled. As his promotion to the said category (semi-skilled) is earlier to the date of promotion of R-6 to the category of semi-skilled, R-5 should be given seniority over R-6 in the category of semi-skilled and accordingly, the revised seniority list was published. As already observed, the applicants herein have no right to challenge that revised seniority when it was published in pursuance of the order in OA 388/87 on the file of this Bench. Even on merits also, we do not find any reason to differ from the principle laid down in OA 388/87.

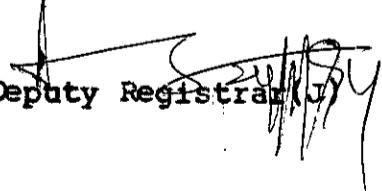
6. Having realised the same, the learned counsel sought time for instructions from the applicants. Then, they filed documents as 'Particulars of applicants and respondents 5 and 6' in regard to the dates of appointment as Khalasis, dates of entry into semi-skilled, skilled, HSK-II and HSK-I. Therein, it was shown that even the applicants 1 to 5, 2 to 11, 13 and 15 were promoted to the semi-skilled w.e.f. 1-8-78 while applicants 6, 12 and 16 were promoted w.e.f. 1-4-79, 1-6-79 and 1-4-80 to the category of semi-skilled. The applicants had not pleaded to that effect and hence there was no occasion for the official respondents to traverse the same. So, there is no possibility of deciding in this OA as to whether the above submissions in regard to the dates of promotion of applicants to semi-skilled are correct or not. But, as the applicants are now shown as juniors to R-5 while prior to impugned seniority list of 1989, they were shown as his seniors, it is just and proper to permit the applicants to submit a representation that they also should

be deemed to have been absorbed in the semi-skilled cadre, if their parent units, after their absorption in this Wagon Workshop, issued proceedings promoting them to semi-skilled category with retrospective effect. And if so, on that basis, the seniority of the applicants in the various categories had to be revised.

7. In the result, this OA with regard to the prayer for declaration that the order in OA 388/87 is not binding upon them is dismissed. The applicants are free, if so advised, to make a representation to the concerned authorities, if in fact they were promoted to the semi-skilled category with retrospective effect on the basis of the proceedings issued by their parent units, after their absorption in the Wagon Workshop at Guntupally. If there was such proceedings by their ^{parent} ~~present~~ unit, the official respondents herein had to revise the seniority of such applicants in the various categories and if it is necessary, to advance the date of promotion in the HSK Category Gr.I to 1-1-84. If it is so done, their pay in the HSK Gr.I had to be fixed and monetary benefit had to be paid from 13-11-89 i.e. one year earlier from the presentation of this OA. The OA is accordingly ordered in regard to the remaining reliefs. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman


Deputy Registrar

To

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1. The Secretary, Union of India,
Ministry of Railways, Railway Board, New Delhi.
2. The General Manager, S.C.Rlys, Secunderabad.
3. The Chief Personnel Officer, S.C.Rlys, Secunderabad.
4. The Deputy Chief Mechanical Engineer,
Wagon Workshop, S.C.Rlys, Guntupally, Krishna Dist.
5. One copy to Mr.v.Rama Rao, Advocate, 3-6-779
14th Street, Himayatnagar, Hyd.
6. One copy to Mr.N.v.Ramana, SC for Rlys. CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

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

AND

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

AND

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

AND

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

Dated: 12/1-1994

ORDER/JUDGMENT:

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

O.A.No. 949/90

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.

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