

(QB)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.958/90.

Date of Judgment 5.2.1992

1. M.Appa Rao
2. M.Krishna Rao
3. S.Sudharasan Rao
4. V.Visweswara Rao
5. K.Narasimha Murty
6. P.V.S.Satyanarayana
7. D.S.Reddy
8. S.V.B.Raja Gopala Rao
9. Md. Abdul Kareem
10. D.Sankar
11. Md. Sharbul Haque
12. R.Jyothis Kumar
13. M.Srinivasa Rao
14. S.Satyanarayana
15. B.T.Kamaraju
16. S.Ramakrishna
17. M.Divakar Rao
18. D.Vykuntam
19. G.V.Seshagiri Rao
20. Ch. Suri Babu
21. S.Francis .. Applicants

Vs.

1. The Divl. Rly. Manager,
South Eastern Railway,
Visakhapatnam.
2. The Divl. Personnel Officer,
South Eastern Railway,
Visakhapatnam.
3. Sr. Divl. Electrical Engineer,
South Eastern Railway,
Visakhapatnam.
4. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta-43.
5. A.Rama Rao
6. D.Venkateswara Rao
7. V.Suryanarayana
8. K.Bapanayya
9. P.V.Ramana
10. K.Ganga Rao
11. S.Ch.Subramanyam
12. D.Janakiramayya
13. K.Krishna Murty
14. V.Satyam
15. K.B.G.Nair
16. V.G.A.Narasimham
17. L.Jagannayakulu
18. V.Appa Rao
19. K.Bhaskara Rao
20. G.Sampat Kumar
21. V.K.Das
22. G.Guru Murty
23. Sadha .. Respondents

Counsel for the Applicants : Shri V.Krishna Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys.
Shri G.Ramachandra Rao, for R to R23.

CORAM:

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

Hon'ble Shri C.J.Roy : Member(J)

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

This application has been filed by Shri M.Appa Rao & 20 others under section 19 of the Administrative Tribunals Act, 1985 against the Divl. Rly. Manager, South Eastern Railway, Visakhapatnam & 22 others. Respondents 5 to 23 are private respondents.

2. The applicants were appointed as Trainee Fitters as Skilled Grade III in the Electrical Loco Shed, South Eastern Railway, Waltair. They were later promoted to the next Skilled Grade also. On 31.12.87, the respondents published a seniority list in which the applicants are shown between serials 64 and 95 and the respondents were all shown junior to them. However, by another letter No.WPV/RSM/2 dated 9-13/6/89 the Divl. Personnel Officer revised the seniority list showing the Respondents 5 to 23 as senior to the applicants. It is alleged that this was done all of a sudden without notice to the applicants. It is pointed out that this is against Rules 302 and 322(b) of the Indian Railway Establishment Manual. The applicants represented against this but not getting a favourable reply they have approached this Tribunal with a prayer that the impugned order No.WPV/RMS/2 dated 6.8.90 of the 2nd respondent revising the seniority list based on the letter dated 9-13/6/89 be quashed. They also want the respondents to be directed to follow the seniority list of 31.12.87 for effecting future promotions.

3. The application is opposed by the respondents. The official respondents have filed a counter affidavit. It is their case that the applicants were due to be promoted to the said cadre after one year training and after passing the required trade test. Persons like the Respondents 5 to 23 have to put in 3 years of service in Class IV and are then eligible for promotion to the said cadre after passing the required trade test. In the instant case, the respondents could not conduct the trade test at the appropriate time. Initially they prepared a gradation list showing the applicants ~~in the~~ promoted cadre as soon as they completed one year but even before passing the trade test. As regards the respondents, they showed them as promoted only after ^{promotion} completing 3 years of service and after passing the trade test. When persons like the respondents preferred representations they re-examined the case and decided to show all persons like the applicants as well as the private respondents as promoted from the dates they became eligible i.e., after one year training in the case of persons like the applicants and 3 years of service in the case of persons like the respondents. It is also contended that the letter dated 9-13/6/89 was a provisional list and ~~is~~ ^{was} actually got circulated to all persons inviting their comments/objections. It is after due notice to various persons concerned that they finalised the list vide their letter dated 6.8.90.

4. The private respondents have also filed a counter affidavit. It is their contention that if the applicants are shown as appointed just on completion of the one year training, they should also, in the same manner, be shown as promoted as soon as they completed the 3 years required service.

5. We have examined the case and heard the rival sides. We find that the official respondents had initially circulated the gradation list dated 31.12.87 showing the applicants as promoted just on completion of one year of

training irrespective of their date of passing/promotion. In contrast, the private respondents were given seniority only from the date of their actual promotion i.e., after passing the trade test. It was this difference in the criteria that led to a spate of representations from people like the private respondents. It was then decided that as a uniform measure all persons should be treated as promoted from the date they were otherwise eligible subject of course to passing the trade test even later. Such a situation has arisen on account of administrative delays and no section of the staff should be adversely affected as a result of administrative delays. In this connection they have quoted the Estt. Serial No. 273/64 Circular No. P/R/14/257 dated 1.10.64 wherein it had been indicated that loss of seniority due to administrative errors can be set right by the Administration. The Administration has to review such representations and assign the right seniority annulling thereby the disadvantage caused to a certain section of the staff due to administrative delays. It is this that the Administration has precisely done. In their letter dated 9-13/6/89 it has been clearly stated that it is only a proposal to revise the seniority list. They invited the comments and finally ^{approved} ^{revised} prepared the list dated 6.8.90. We, therefore, do not accept the contention of the applicants that the revision of the seniority list dated 31.12.87 in June, 1989 was done behind their back to their disadvantage.

6. The applicants had alleged that what the Administration did was in violation of Rule 302 of the Indian Railway Establishment Manual. These rules relate to instances ~~cases~~ where promotions are effected in accordance with rules. The applicants cannot be considered to have been promoted unless it is in accordance with the statutory promotion rules and they can be treated as having been duly promoted only after they had completed one year of training and also

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after passing the trade test. Since the regular promotion has to be only after passing the trade test, they cannot claim any rights over the promotions which were done without passing the trade test. Until and unless this is done, they cannot claim what is not actually due to them. Since the trade tests were held at different times, the Administration had tried to ensure a certain uniformity by treating the respondents on the same footing as the applicants. In this process they have only tried to remove the legitimate grievance of a certain section of the staff and the applicants have no right to feel aggrieved.

7. Under these circumstances, we find that there is no case for us to interfere and we accordingly dismiss the application with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)
Member(A).

wom
(C.J.Roy)
Member(J).

Dated 5th February, 1992.

S 27/2/92
Dy. Registrar(Judl.)

2b
Copy to:-

1. The Divisional Railway Manager, South Eastern Railway, Visakhapatnam.
2. The Divisional Personnel Officer, South Eastern Railway, Visakhapatnam.
3. Senior Divisional Electrical Engineer, South Eastern Railway, Visakhapatnam.
4. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-43.
5. One copy to Shri. V.Krishna Rao, advocate, CAT, Hyd-bad.
6. One copy to Shri. N.R.Devaraj, SC for Railways, CAT, Hyd.
7. One copy to Shri. G.Ramachandra Rao, for R2 to R23, C.A.T. Hyd-bad.
8. One ~~spare~~ copy to D.R(J), C.R.Hyd.
9. Copy to all Reporters as per the standard WR of C.A.T. Hyd-bad Bench.
RSM/- one spare copy.

15 Feb 1992
27/2/92

Re/No 13

O.A. 958790

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

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

AND

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

AND

THE HON'BLE MR.C.J.ROY : MEMBER(JUDL)

DATED: 5/2/1992

ORDER/JUDGMENT:

R.A/C.A/M.A.N.

in

O.A.No.

958790

T.A.No.

W.P.No.

Admitted and interim directions issued.

Allowed

Disposed of with directions.

O.A Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

