

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH AT : HYDERABAD

(20)

O.A. No.964/90

Date of order: 18/12/1990

BETWEEN

Syed Hameed,
H.S. Grade II, CWS,
S.E. B.G. S.C. Railway,
Secunderabad.

.. Applicant

Vs.

Divisional Railway Manager,
(P) BG/SC, S.C. Railways,
Secunderabad.

.. Respondent

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APPEARANCE:

For the applicant : Shri K. Sudhakara Reddy, Advocate

For the respondent : Shri Jalli Siddaiah, Standing
Counsel for Railways.

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CORAM:

THE HON'BLE SHRI B.N. JAYASIMHA, VICE CHAIRMAN

THE HON'BLE SHRI D. SURYA RAO, MEMBER (JUDICIAL)

(Judgement of the Bench delivered by Shri D. Surya Rao)
Hon'ble Member (Judicial)

The applicant herein is a Lorry Driver working in South Central Railway. In the present application he seeks to assail order No. S.O.O. No.100C&W,Cadre/90 dt.8.11.1990 passed by the Divisional Railway Manager (P)BG/SC Railway, Secunderabad, the respondent herein, reverting him from the post of Lorry Driver HS-II scale of Rs.1200-1800/- to the post of Lorry Driver, SK Gr.III. The respondent filed a counter opposing the applicant.

2. We have heard the learned counsel for the applicant Shri K. Sudhakara Reddy and Shri Jalli Siddiah, Standing Counsel for Railways, on behalf of the respondents.

3. The case of the applicant is that while he was working at Kazipet as Lorry Driver, SK. Gr.III, ^Scale Rs.950-1500, he had passed the requisite trade test for promotion to the post of Lorry Driver, ^{Grade II A} and was promoted by office order No.C/535/C&W/Lorry Drivers, Dt.29.4.89 to officiate as Lorry Driver HS-II Scale Rs.1200-1800/- and posted to Secunderabad against an existing vacancy. Subsequently by impugned order dt.8.11.90 he was reverted back to the scale of 950-1500/- on the ground that one Sri K. Vijayakumar, Lorry Driver, SK.Gr.II has been deseconded from Iraq. Shri Sudhakara Reddy contends

that the vacancy in which the applicant was promoted was not the vacancy which had arisen, consequent to Sri Vijayakumar having been sent to Iraq and consequently the applicant cannot be reverted on the ground that Sri Vijayakumar has returned from Iraq. He states that the applicant was promoted in a clear vacancy and that the order promoting him does not mention that he was promoted in the vacancy of Sri Vijayakumar. He further contends that since the applicant passed the requisite Trade Test for promotion he cannot be reverted. The impugned order is also assailed as violative of principles of natural justice, as no notice was given to the applicant. He also seeks to contend\$ that the impugned order is in violation of Rule 9 and 10 of the Railway Servants (D&A) Rules.

4. On behalf of the respondents, Shri Jalli Siddaiah contends that there are 3 grades of Lorry Drivers viz., Grade-I, II and III in each of which there are 4 posts. As there were only two eligible and suitable candidates to hold the Grade I posts, ^{the A} remaining two Grade I posts were downgraded to that of Grade II. The result was the strength of Lorry Drivers Gr. I, II and III got modified to 2, 6, and 4 posts respectively. Among the Grade II post holders, Sri Vijayakumar and Sri Anjaiah went to Iraq in 1988. In their vacancies the applicant and another were promoted to officiate

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as Gr.II Lorry Drivers on promotion from Grade III by promotion after being Trade tested. Subsequently, one more vacancy arose due to the retirement of Sri Md. Khalemulla on superannuation. On the return of Shri Vijayakumar and Anjaiah from Iraq it was found that they fulfilled the requirements for promotion Gr.I. Hence, the two posts of Gr.I were restored and they were posted to Grade I posts after being trade tested. Consequent thereto there remained only 4 posts of Gr.II. The result was that there were in all only 8 vacancies in Gr.I and II together whereas there ~~are~~ ^{were} 9 persons in position including Shri Vijayakumar and Anjaiah. The applicant who was the juniormost Gr.II Lorry Driver had accordingly to be reverted as Grade III Lorry Driver and posted to ~~was~~ ^{was} Bhadrachalam. The reversion effected on the principle "Last come first go" as the applicant was juniormost Gr.II Lorry Driver. For these reasons Shri Siddaiah contends that the contentions of the applicant that he was regularly posted as Gr.II Lorry Driver and he cannot be reverted is untenable.

5. It is clear from the rival contentions that the applicant was promoted to officiate as a Gr.II Driver. He was never appointed in a clear vacancy on ~~the~~ ^{regular} basis as sought to be contended by him. The counter has

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satisfactorily explained the circumstances under which the applicant had to be reverted. Such a reversion is not by way of punishment or disciplinary action. It was clearly done for want of vacancy. To a specific question put by us, the counsel for the applicant does not deny that the applicant is juniormost who had to face reversion. There is therefore no merit in any of the contentions raised that the applicant should have been continued as Gr.II Lorry Driver. ^{Sudhakar Reddy D} Shri ~~Siddaram~~ had sought to contend that the matters covered by this Tribunal order in D.A.No.953/90, ^{the} ~~the~~ facts of that case have no relevance whatsoever to this case. In that case certain posts of Signallers were sought to be abolished and regular incumbents were given an option to absorb ^{be R} ~~be R~~ as Goods Guards. One of the ^{optees} was reverted not back to the post of Senior Signaller for want of vacancy ^{the post of} of Goods Guard, but he was sought to be reverted as Junior Signaller without giving him any opportunity. No valid reasons were mentioned in the order of reversion as to why the applicant in that case was liable to be ^{not} reverted. It was a case of "Last come first go" as in the present case. In these circumstances, the

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Tribunal had allowed the O.A.No.953/90. As already stated by us, the facts of the present case are totally different. For the reasons given by us above, we find no merit in the case. Accordingly the application is dismissed. No order as to costs.

B.N.Jayarama
(B.N. JAYASIMHA)

VICE-CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER(JUDICIAL)

Dt. 18 - 12.1990

Deputy Registrar (J)
Deputy Registrar (J)

Mvs

To

1. The Divisional Railway Manager,
(P) BG/SC, South Central Railways,
Secunderabad.
2. One copy to Shri K. Sudhakara Reddy, Advocate,
No. 2-2-1132/5, New Nallakunta, Hyderabad.
3. One copy to Shri Jalli Siddaiah, Standing Counsel for
Railways.
4. One Spare Copy.

srr/

6/12/90

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CHECKED BY
TYPED BY

APPROVED BY
COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. B. N. JAYASIMHA : V.C.
AND

THE HON'BLE MR. D. SURYA RAO : M(J)

AND

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

AND

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

DATE: 24-9-18/12/90

ORDER / JUDGEMENT:

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

in

T.A. No.

W.P. No.

O.A. No. 964/90

Admitted and Interim directions
issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with directions.

M.A. Ordered / Rejected.

No order as to costs.

