

(67)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 992/90

Dt. of Decision : 7.12.93

G. Dayananda Rao

... Applicant.

vs

1. The Union of India rep. by the General Manager, S.E., Rly. Garden Reach, Calcutta - 43.
2. Chief Personal Officer, S.E. Rly., Garden Reach, Calcutta.
3. Divisional Railway Manager, S.E. Rly., Waltair.
4. G.M. Raju, Dy. Shop Superintendent, MMC Work Shop, S.E. Rly., Visakhapatnam.
5. C.B. Kothari, Ch. Man 'A' Mill right Machinery work shop, Engineering, S.E. Railway, Bilaspur (M.P)
6. Sri P.K. Rudra (Ch. Man 'B') Divisional Mill right work shop, Cuttack, Orrisa State.
7. Karmu, Ch. Man 'A', Dy. Chief Engg. Work Shop, SINI, Dist. Singhbhum, (Bihar State).
8. S.R. Dey (Ch. Man 'A') Chief Engineering Office, Open line, Garden Reach, Calcutta - 43 (W.B.).
9. P.K. Das, (Ch. Man 'A') Dy. Chief Engineering work shop, SINI, Dist. Singhbhum, (Bihar State)
10. Jagadiash Dutta (Ch. Man 'A') Dy. Chief Engineering work shop, SINI, District Singhbhum, (Bihar State)

11. D. Satyanarayana (Dy.SS)(T/T)
Dy. Chief Engineering work shop,
SINI, Dist. Singhbhum,
(Bihar State).
12. M.D.S. Hussain,
Deputy Shop Superintendent,
Chief Engineering Office,
Open Line, Garden Reach,
Culcutta - 43 (WEST BENGAL).
13. T.K. Nath, Charge Man 'A',
Deputy Chief Engineering Work Shop,
SINI, District : Singhbhum,
Bihar State.
14. A.K. Bhadra, Charge Man 'A',
Deputy Chief Engineering Work Shop,
SINI, District : Singhbhum,
Bihar State.
15. Gurucharan Singh, Charge Man 'A',
Deputy Chief Engineering Work Shop,
SINI, District : Singhbhum,
Bihar State.
16. Mukul-oh-Bakchi, Charge Man 'A',
Deputy Chief Engineering Work Shop,
SINI, District : Singhbhum,
Bihar State. . . Respondents.

Counsel for the Applicant : M/s.Sri.M.Kesava Rao &
Mr.K.Venkateswarlu

Counsel for the Respondents : Mr. N.R. Devaraj
Sr. CGSC.
Mr. G.V.Subba Rao, R-4

CORAM:

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

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

Judgement

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

The applicant was appointed as Highly Skilled Motor Mechanic Gr.II on 13-10-64 and he was posted in the Engg. workshop, Sini (open line). On 3-8-70 (Trade tested on 1-9-72), the applicant was promoted as Highly Skilled Mechanic Gr.I. He was transferred on deputation to the Waltair-Kirandul Railway Electrification Project (for short Electrification Project), Construction Wing, in the same capacity as Highly Skilled Mechanic Gr.I w.e.f. 23-9-72. On adhoc basis the applicant was promoted in the Construction Wing to the post of Chargeman 'B' w.e.f. 1-11-72 and regularised in the post of Chargeman ^B in the Construction Wing by Office Order dt. 9.7.73. The applicant was repatriated to open line Engineering Branch from Railway Electrification Project by Office Order dt. 12-7-77. On repatriation, the applicant was posted as Chargeman-B at RAC Workshop, Waltair on adhoc local arrangement.

2. The combined seniority list of Highly Skilled Gr.I/ Supervisor Maistry in the Open Line was published in 1986. The applicant made a representation to R-2 requesting for regularisation of his service as Chargeman Gr.B from the date of his appointment in that grade in Electrification Project, or atleast from the date of his repatriation to Open Line. By letter dt. 22-9-88 R-2 informed the applicant that he had not yet been empanelled to the post of Chargeman-B and he was working as Chargeman only on adhoc basis. When the turn of the applicant for promotion to the post of Chargeman-B had come up in 1989, he was asked to appear before the Selection Board in that ^{Year} area and by order dt.

19-1-90 the applicant was empanelled for the post of Chargeman Gr.B in Open Line on a regular measure.

3. This OA was filed praying for a declaration that the action of the respondents in not giving the applicant seniority in the cadre of Chargeman-B w.e.f. 19-7-93 or from 20-7-77 by counting his adhoc service of Chargeman 'B' and promoting juniors by giving the applicant seniority is arbitrary and illegal, and to direct the respondents to fix his seniority on the basis of his first empanelment on 19-7-93 or from 20-7-77, the date of his transfer to Open Line in the category of Chargeman 'B' and to promote him from the date his immediate juniors were promoted.

3. The points that arise for consideration are:

(i) whether the employee is entitled to claim that he should be absorbed in the same grade in which he was working in the transferee unit on repatriation to his parent unit, and

(ii) whether the adhoc service of the applicant in the post of Chargeman 'B' had to be counted for fixation of his seniority on his regular promotion to the post of Chargeman 'B' in the Open Line.

Point (ii)
4. Whenever it is a case of transfer on deputation, the seniority of the employee in the parent unit is not disturbed. Even in spite of transfer ^{on} of deputation, the case of such employee had to be considered for promotion in the parent unit when his turn comes. Of course, so long ^{as} the said employee is in the transferee unit, he is eligible for consideration for promotion in the transferee unit also; but he cannot get the benefit of that promotion if he is transferred to the parent unit. It means that so long as he is in the transferee unit, he can have the benefit of promotion

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post, and on repatriation he had to be posted in the same cadre in which he was working by the time of his transfer on deputation, ^{unless} Unless he was promoted in the parent unit during the period of his service on deputation and in such a case, he had to be posted in that promoted post in the parent unit. Thus, the employee's cadre depends upon his position in the parent unit from the date of his repatriation, and his cadre in the transferee ~~is not material~~ unit, ~~so long he works in the transferee unit and his~~ cadre in both the units i.e. the parent unit and the transferee unit may not be the same. It is due to the reason that promotion is linked with seniority. If there are not sufficient number of seniors in the transferee unit, the deputationist may get promotion earlier in that unit, and he may not get such promotion in the parent unit ~~though~~ for want of vacancies or there might have been more seniors in the parent unit. For consideration of promotion of the deputationists in the transferee unit, the cases of his ^{seniority} in the parent unit are not considered. Hence, he cannot claim the benefit of promotion in the transferee unit ^{over} and above his seniors in the parent unit. Thus, on repatriation he had to take back his seniority position in the unit in which he was working by the time of transfer, or in case of his promotion in the parent unit, ^{during} During the period of his deputation, he had to take his seniority position in that promotional post in the parent unit on repatriation. The same is equitable. Thus, the applicant cannot claim the benefit of promotion in the Electrification Project i.e. the Construction Line, on his repatriation to the Open Line. As the turn of the applicant for promotion to Chargeman 'B' in the Open Line had not come

Verma
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Copy to:-

1. General Manager, S.E.Railway, Union of India, Garden Reach, Calcutta-43.
2. Chief Personal Officer, S.E.Railway, Garden Reach, Calcutta.
3. Divisional Railway Manager, S.E.Rly, Waltair.
4. One copy to Sri. M.Kesava Rao, advocate, H.No.9-95, Dwarkapuram, Dilsukhnagar, Hyd.
5. One copy N.R.Devaraj, SC for Rlys, CAT, Hyd.
6. One copy to Sri. G.V.Subba Rao, advocate, (R-4), CAT, Hyd
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III

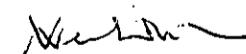
by the time of his repatriation, he should have been posted as Highly Skilled Mechanic Gr.I. But, due to local arrangement, the applicant was posted as Charge-man 'B' on adhoc basis on his repatriation. Thus, we find that the applicant is not entitled to the benefit of promotion to the post of Chargeman 'B' in the Construction Line on his repatriation to the Open Line.

Point (ii)

5. When the turn of the applicant for promotion to the post of Chargeman 'B' in the Open Line had come, he was asked to appear before the Selection Board in 1989. It is not the case of the applicant that by the time of his repatriation he was the seniormost in the category of Highly Skilled Mechanic Gr.I in the Open Line. As such, his service as Chargeman 'B' on adhoc basis in Open Line till the date of his empanelment by order dt. 19-1-90 does not count for fixation of seniority in the post of Chargeman Gr.B in the Open Line. No material is placed before us for the applicant to show that his juniors in the category of Highly Skilled Mechanic Gr.I in Open Line were promoted earlier to him as Chargeman Gr.'B' in the Open Line. As such, this point also ^{is} held _{thus} against the applicant. Accordingly, his service as Chargeman 'B' on adhoc basis in the Open Line does not count for fixation of his seniority in the category of Chargeman 'B' in the Open Line.

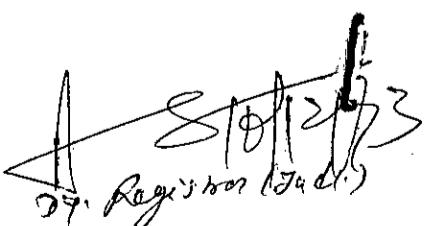
6. Accordingly, this OA is dismissed. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dt. 7th Dec 1993
(By circulation)

kmv


7th Dec 1993
Registrar (J.A.C.)

contd - - 6/-