

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

DA 1015/90.

Dt. of Order:15-11-93.

Kona Durga Polaswar Rao

....Applicant

Vs.

1. The Union Ministry of Railway
rep. by the Chairman of Railway
Board, New Delhi.
2. The General Manager, SC Rlys,
IIIrd Floor, Rail Nilayam, Sec'bad.
3. The Divisional Rly Manager,
Vijayawada Division, SC Rlys,
Vijayawada.
4. The Sr.Divisional Personnel Officer,
Vijayawada Division, SC Rlys, Vijayawada.
5. Shaik Masthan
6. A.V.Ramchander Rao
7. K.Venkata Rao
8. M.V.S.R.K.Prasad
9. T. Adinarayana
10. K.Ranga Rao

....Respondents

Counsel for the Applicant : Shri M.Lakshmana Sarma

Counsel for the Respondents : Shri D.Gopal Rao, 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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No.1015/90

Dt.of decision:15-11-1993.

Judgement

[As per the Hon'ble Sri V. Neeladri Rao, Vice Chairman]

The applicant herein joined service as Guard-C on 29-7-76, and he was promoted as Guard 'B' on 1-1-84. He volunteered for the post of Section Controller and on the basis of his performance in the written test and interview he was selected for the said post. R-5 to R-7, and R-11 joined service in the Railways in 1960s and all of them were promoted as ASMs on 1-8-1983.

They also volunteered for the post of Section Controller and they too were selected on the basis of their performance at the same time at which the applicant was selected. R-8 to R-10 were selected as Traffic Apprentices and after their training they opted for the posts of Section Controller and they were appointed as Section Controllers and they joined service as Section Controller on 14-11-1986, 24-12-1986, and 2-4-1987 respectively. The applicant is shown as the junior~~most~~ of the Section Controllers selected in 1986 and thus he was shown as junior to R-11.

2. This OA was filed praying for quashing the provisional seniority list dated 12-9-1989 which was confirmed by letter dt.7-5-90 whereby the applicant is shown as junior to R-5 to R-11 by holding it as illegal and void, and for a direction to R-3 to prepare a fresh seniority list of Section Controllers by taking the applicant's non-fortuitous service in the cadre of Guards in Rs.1400-2300

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on par with ASMs and place him above R-5 to R-11.

3. The rules envisage that the posts of Section Controller have to be filled up in the following ratios:

Traffic Apprentices (Direct Recruitment) 25%

Guards B. 30%

A.S.Ms. ... 30%

Assistant Yard Masters ... 15%

There is a Departmental Examination ^{for promotion} ~~from out~~

of employees in the categories of Guards, ASMs and Asst. Yard Masters who volunteer for the posts of Section Controller. The Traffic Apprentices were ~~are~~ selected on the basis of direct recruitment. The rules ^{state} ~~first laid~~ that the inter se seniority in the category of Section Controller from out of those selected from the categories of Guards, ASMs and Asst. Yard Masters should be on the basis of the entry into ~~immediate~~ lower category. The Board's letter No.E(NG)I/78/PM1/305 dated 15-6-1979 gives a weightage to the Guards who are selected as Section Controllers for fixation of inter se seniority. The Guard 'C' was in the pay scale of Rs.330-530 while Guard 'B' ^{was} in the scale of Rs.330-560 before the revised scales had come into effect on 1-1-86. As per the Board's letter dt.15-6-79 the scale of Rs.330-530/- had to be treated as scale of Rs.425-640, and the scale of Rs.330-560 had to be treated as scale of Rs.425-700 for reckoning the date of entry into ^{lower category for} ~~service~~. For fixing inter se seniority in the category of Section Controller from amongst those who were selected from the posts of Guards, Assistant Yard Masters, and Asst. Station Masters. The Asst. Yard Masters were in the scale of Rs.425-640 and the ASMs were in the scale of Rs.455-700 before the

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revised scales had come into effect from 1-1-86. Thus when the inter se seniority of those who were selected from the category of Guards and Asst. Yard Masters to the post of Section Controller, had to be fixed, the entry into service in Guard 'C' and the entry into service in the category of Asst. Yard Masters have to be taken as the basis. So, this Bench held by order dt.7-4-88 in T.A. 178/86 that the date of entry into service as Guard 'C' had to be taken into consideration, ~~where~~^{whereas} as Guard 'B' he was promoted and when his inter se seniority had to be fixed vis-a-vis one who was promoted from the category of Asst. Yard Masters to the post of Section Controller.

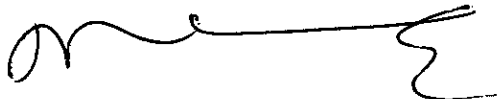
4. But the scale of pay of Asst. Station Masters was Rs.425-700, and the scale of Rs.330-560 which was applicable for Guard 'B' was treated as equivalent to Rs.455-700 for the purpose referred in the Railway Board's Lr. dated 15-6-79. Hence the date of entry into post of Guard 'C' cannot be taken into consideration and it is only the date of entry into Guard 'B' that had to be taken into consideration when it is a case of fixation of inter se seniority in the category of Section Controller vis-a-vis ASM who was promoted to that post.

5. The regular appointment of Traffic Apprentices i.e. R-8 to R-10 is earlier to the regular promotion of the applicant. The latter is the applicant joined as Section Officer on 8-11-86 where he was promoted on adhoc basis to the said post. The written examination for promotion to the posts of Section Controller was held later i.e. on 30-11-86 and interviews were held on 1-5-87. Thus adhoc promotion of applicant was not on the basis of selection. R-8 to R-10 joined service as Section Controllers even before applicant was interviewed for the post of Section Controller. Hence he cannot claim that his service from the date of ad hoc promotion as Section Officer has to be reckoned for fixing seniority. If adhoc promotion is

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given after regular selection, then service from the date of adhoc promotion has to be reckoned for fixing seniority. Any-how, there is no need to further ~~admit~~ ^{admit} to it, as it was not pleaded for the applicant that he had to be shown as senior to R-8 to R-10 as his adhoc promotion to the post of Section Controller is earlier to the appointments of R-8 to R-10.

6. In the result this OA is dismissed. No costs.



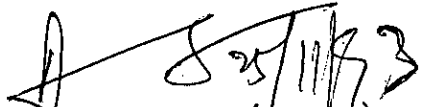
(R. Rangarajan)
Member (Adm.)



(V. Neeladri Rao)
Vice Chairman

Dictated in Open Court

Dt.15th November, 1993


Deputy Registrar(Judl.)

kmv

Copy to:-

1. Chairman of Railway Board, Union of India, New Delhi.
2. The General Manager, SC Rlys, IIIrd floor, Rail Nilayam, Secunderabad.
3. The Divisional Rly Manager, Vijayawada Division, SC Rlys, Vijayawada.
4. The Sr. Divisional Personnel Officer, Vijayawada Division SC Rlys, Vijayawada.
5. One copy to Shri, M. Lakshmana Sarma, advocate, A-205, Maruthi Apartments, Hyderguda, Hyd-29.
6. One copy to Sri. D. Gopal Rao, 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. NEELADRI RAO
VICE-CHAIRMAN

AND

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

AND

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

AND

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

Dated: 15/11/1993

ORDER/JUDGMENT:

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

O.A.No.

in

1015/90

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.

