

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.74/90.

Date of Judgment 20.12.1986

Madhusudhan Kulakarni .. Applicant

Versus

1. Chief Personnel Officer,
Rail Nilayam,
South Central Railway,
Secunderabad.

2. Divisional Railway
Manager(P),
Meter Guage,
Hyderabad.

3. Rajanna Ramaswamy,
Machine Maistry,
Kazipet (working as
Chargeman 'A' on
adhoc basis). .. Respondents

Counsel for the Applicant : Shri S.Lakshma Reddy &
Shri P.Jawahar Raju

Counsel for the Respondents : Shri Jalli Siddaiah
SC for Railways

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

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

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

This application has been filed by Shri Madhusudhan Kulakarni under section 19 of the Administrative Tribunals Act, 1985 against the Chief Personnel Officer, Rail Nilayam, South Central Railway, Secunderabad and 2 others, one of them a private respondent.

(24)

2. The applicant was initially recruited as Apprentice-Mechanic and after undergoing training he was appointed as Chargeman 'B' in the Railways with effect from 21.4.86. On 8.10.86 he made a representation to the respondents seeking promotion as Chargeman 'A'. In reply to that representation the 2nd respondent replied on 22.1.87 stating that the applicant is to complete 2 years of working as Chargeman 'B' before being considered for promotion to the post of Chargeman 'A'. After completing 2 years of working as Chargeman 'B' the applicant made a representation in August, 1988 for promotion as Chargeman 'A' but the promotion was not ordered while an unqualified 3rd respondent (~~the~~ private respondent) was still being continued as Chargeman 'A' at Kazipet. The applicant alleges that the 3rd respondent was a Machine Maistry at Kazipet and though he failed to qualify in the selection for the post of Chargeman 'B' he was promoted to officiate as Chargeman 'B' purely on adhoc basis in the exigencies of service at Kazipet subject to the condition that the said arrangement will terminate when the regular incumbent reports against the post. Within a period of one year thereafter he was further promoted as Chargeman 'A' purely on adhoc basis as a measure of local arrangement with a stipulated condition that the said arrangement would be terminated when regular incumbents report for duty. The applicant is aggrieved that while he was

not promoted as Chargeman 'A' even after fulfilling the required conditions the 3rd respondent was continued. The applicant prays that the respondents be directed to promote him as Chargeman 'A' with retrospective effect from the date he became eligible with all the consequential benefits.

3. The application is opposed by the respondents. The facts of the case are admitted by the respondents. It is stated that when the applicant fulfilled the required conditions in April, 1988 he could not be promoted as Chargeman 'A' because there was a proposal to surrender two posts of Chargeman 'A' one each at Kazipet and Lallaguda in Secunderabad and Hyderabad Divisions respectively as a result of review conducted by the Chief Motive Power Engineer(P&L)/SC in regard to the requirements of P&M Supervisors. The Chief Motive Power Engineer had also passed orders on 28.6.88 that no vacancies of Supervisors be filled up till the review is done. It is stated by them that the 3rd respondent was officiating as Machine Chargeman 'A' on adhoc basis since 1982 itself and was continuing to work as Chargeman 'A' on adhoc basis. When the post of Machine Chargeman 'A' was surrendered the 3rd respondent retired from service voluntarily on 16.4.90. It is pleaded by the respondents that as and when a post of Chargeman 'A' becomes available the applicant could be considered.

4. We have examined the case and heard the learned counsel for the applicant and the respondents. It is clear that the applicant became eligible for the post of Chargeman 'A' only in April, 1988. By about that time the 3rd respondent was already officiating as Chargeman on adhoc basis for six years from April, 1982 itself. The 3rd respondent was not even regular Chargeman 'B'. He was only officiating on adhoc basis. The applicant, however, fulfilled all the conditions for promotion to the grade of Chargeman 'A' by April, 1988 itself. In keeping with the conditions of adhoc promotion of the 3rd respondent, the Railway Administration could, in April, 1988, have reverted the 3rd respondent, if it was necessary to promote the applicant as Chargeman 'A'. The vacancies in the grade of Chargeman 'A' were available till 16.4.90 when the 3rd respondent retired. The continuance of the 3rd respondent as Chargeman 'A' from April, 1988 to April, 1990 till the time of voluntary retirement of the 3rd respondent while at the same time denying the opportunity to an eligible candidate like the applicant is irregular.

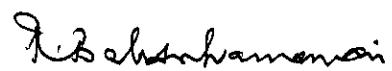
5. The respondents are, therefore, directed to consider the case of promotion of the applicant as Chargeman 'A' from the date he was eligible. If he is considered fit for promotion, the promotion to the grade of Chargeman 'A' should be deemed to have taken effect from April, 1988 itself at least till 16.4.90 when R-3 retired. After that date, if posts ~~is~~ Chargeman 'A' are not available

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due to surrender of posts, then the applicant can be reverted, if no posts of Chargeman 'A' are available for him. This exercise should be completed by the respondents within three months from the date of receipt of this order. There is no order as to costs.



(J.Narasimha Murthy)
Member(Judl).


(R.Balasubramanian)
Member(Admn).

Dated 20th December 95 for Subangji of
Deputy Registrar(Judl) 2/4/2

To

1. The Chief Personnel Officer,
Railnilayam, S.C.Railway,
Secunderabad.
2. The Divisional Railway Manager(P)
Meter Guage,
Hyderabad.
3. One copy to Mr. S.Lakshma Reddy, Advocate
3-4-548/3, Behind Y.M.C.A. Near Andhra Bank,
Narayananaguda, Hyderabad.
4. One copy to Mr. J.Siddaiah, SC for Rlys, CAT.Hyd.
5. One copy to Hon'ble Mr.R.Balasubramanian, Member(A) CAT.Hyd.
6. One copy to Hon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
7. One spare copy.

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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- 20/12/90

ORDER / JUDGEMENT :

M.A. / R.A. / C.A. / NO.

in

T.A. No.

W.P. No.

O.A. No. 74/90

Admitted and Interim directions
issued.

Allowed. ✓

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

