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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 829/91, DA 1133/91, DA 83/92,
DA 90/92, DA 93/92, DA 370/92,
DA 371/92, DA 973/93, DA 977/93 &
DA 1192/93.

Dt. of Order: 1-11-93.

DA 829/91.

1. TLN Prasad
2. BL Krishna Murthy
3. M. Sivanandam
4. M. Krishna Rao
5. K. Guravaiah
6. A. Prakasa Rao
7. Shaik Mahaboob

....Applicants

Vs.

1. Chief Mechanical Engineer, SC Rlys, Sec'bad.
2. Dy. Chief Mechanical Engineer, Wagon Workshop, SC Rlys, Wagon Work Shop, Guntupally, Krishna Dt.
3. Workshop Personal Officer, Wagon Workshop, SC Rlys, Krishna Dt.

....Respondents

DA 1133/91.

1. G. Balakrishna Murthy	18. G. Yesu Dass
2. K. Venkateswara Rao	19. J. Veera Raju
3. S. Radhakrishna Murthy	20. P. L. Narayana
4. T. Krishna Reddy	21. I. Rama Mohana Rao
5. M. Venkateswara Rao	22. Sk. Abdul Sammad
6. V. Nancharaiah	23. V. Rajendran
7. V. K. Ali	24. P. Vijay Kumar
8. N. Mahammed Kutty	25. K. John Victor Paul
9. M. Arjuna Rao	26. K. Satyanarayana
10. G. Appa Rao	27. P. Alivi
11. G. Peraiah	28. K. P. Gangadharan Nair
12. P. K. Velayudan	29. P. M. Gopalan
13. P. K. Appa Kuttan	30. E. Kesavan Nair
14. Sd. Asham	31. P. Chandrasekaran
15. M. Hari Prasad	32. T. James Williams
16. E. Bangarappadu	33. C. Balaiah
17. V. Gopaiah	34. B. Yellamandeswara Rao

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35.S.Kondaiah
36.K.Ramesh Babu
37.A.Rama Rao
38.G.Narasimha Rao
39.B.Nagabushanam
40.T.Subramanyam
41.S.Suryanarayana
42.Sk.Pakeera
43.N.Venkateswarlu
44.V.K.Sashidharan
45.G.Lakshmaiah
46.B.Narayana Singh
47.D.Kondaiah

48.y.sundaraiah
49.G.Subba Rao
50.T.Naga Subramanyam
51.V.Radha Krishnaiah
52.K.Sankaran
53.M.Kannaiah
54.J.Daniel
55.Md.Ibrahim
56.G.Garata Rao
57.P.Ramanaiah

....Applicants

Vs.

1. The Divisional Railway Manager (Personnel),
SC Rlys, Vijayawada.
2. The Divisional Engineer (Special Works),
SC Rlys, Vijayawada.
3. The Chief Bridge Inspector, SC Rlys, Vijayawada.
4. The Chief Bridge Inspector, SC Rlys, Bitragunta.

....Respondents

DA 83/92.

1.B.Balasubrahmanyam
2. N.Meerajan
3. B.Chenchugadu
4. K.Satyana Rayana
5. M.Subba Rao
6. M.Hussain
7. B.Venkateswarlu
8.V.Sundara Rao
9.S.Venkateswara Rao
10.O.Gangaiah
11.M.Ibrahim
12.R.Audinarayana
13.M.Soloman

14.P.G.Satyam
15.V.Bapa Rao
16.N.Sundararaman
17.A.Loganathan
18.T.Narayudu
19.K.Krupa Rao
20.G.Venkateswara Rao
21.O.Suryanarayana
22.K.Pitchaiah
23.T.Ramulu
24.M.M.Ayyappan
25.C.Adbul Kutti
26.M.S.Louther

.....Applicants

Vs.

1. The Divisional Rlys Manager,(P),
SC Rlys, Vijayawada,
2. The Divisional Engineer (Spl.Works),
SC Rlys, Vijayawada.
3. The Asst.Engineer, (General),SC Rlys, Vijayawada,
4. The Chief Bridge Inspector, SC Rlys, Vijayawada.

.....Respondents

OA 90/92.

1. Venkataiah
2. M.Jangaiah
3. M.Venkataswamy
4. Sankar
5. Durgaiah
6. Krishna Kumar
7. Prabhakar

....Applicants

Vs.

1. Sr.Divisional Personnel Officer, Hyd Division (MG), SC Rlys, Sec'bad.
2. Divisional Engineer (Central), Hyd Division (MG), SC Rlys, Sec'bad.
3. Asst.Engineer, Water Works, Hyd Division (MG), SC Rlys, Sec'bad.
4. Inspector of Works, IOW Water Works, South Lalaguda, Hyd Division (MG), SC Rlys, Sec'bad.

....Respondents

OA 93/92.

1. R.Lingaiah
2. S.Anjaiah
3. B.Narsinga Rao
4. U.Ramulu

Vs.

....Applicants

1. Sr.Divisional Personnel Officer, Hyd Division (MG), SC Rlys, Sec'bad.
2. Divisional Engineer (Central), Hyd Division (MG), SC Rlys, Sec'bad.
3. Asst.Engineer, Water Works, Hyd Division (MG), SC Rlys, Sec'bad.
4. Inspector of Works, IOW Water Works, South Lalaguda, Hyd Division (MG), SC Rlys, Sec'bad.

....Respondents

OA 370/92.

1. Narasimha	12. Venkatnarsu
2. Narasaiah	13. Sk.Jeeelani
3. Anthaiah	14. Pochaiah
4. Anjaiah	15. M.Pochaiah
5. Narasaiah	16. S.Sailoo
6. Puillaiah	17. P.John
7. Mallaiah	18. Mallaiah
8. Smt.Bhushanamma	19. K.Narsing Rao
9. Komaraiah	20. C.Mallaiah
10. Chandraiah	21. Ramaswamy
11. Yadagiri	22. P.Narsimha

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23.Balaiah	65.Manik
24.Laxmaiah	66.Semmaiah
25.Ayoday	67.Rajaiah
26.Narsimha	68.Chithaiah
27.Ghannaiah	69.Pochaiah
28.Mallaiah	70.Laxmaiah
29.K.Rajaiah	71.T.Anjaiah
30.Shraneppe	72.P.Sreeramulu
31.R.Pentaiah	73.Sk.Hyder
32.Kistaiah	74.A.Muniswamy
33.C.Malleesh	75.Smt.Yedamma
34.B.R.Narsimha	76.Malleesh
35.K.Laxman	77.Smt.Laxmibai
36.Krishna	78.Smt.Rajamani
37.Akaiah	79.Sailu
38.S.Ramulu	80.Srinivas
39.L.Yadagiri	81.K.Eshwar
40.D.Malleesh	82.Sadath Khan
41.Pochaiah	83.Raghavulu
42.Ramulu	84.Venkateswamy
43.Smt.Sangeethamma	85.A.Venkata Raju
44.B.Balakrishna	86.Kanakaiah
45.Bikshapathi	87.D.Sailu
46.Mallaiah	88.Ramulu
47.C.Yadagiri	89.B.Yadagiri
48.Yadagiri	90.Jangaiah
49.Buchi Reddy	91.M.Abdul Sathar
50.Smt.Narsamma	92.C.Rama Swamy
51.Smt.Kanthamma	93.Awad
52.Laxmaiah	94.S.Rajaiah
53.Sambaiah	95.B.Nagaraju
54.S.Rajaiah	96.V.Bikshapathi
55.Mallaiah	97.B.Gunda Reddy
56.Yadaiah	98.G.Sathyanarayana
57.Narsimha	99.Yadagiri
58.K.Narsimha Rao	100.Jaya Rao
59.S.Somaraju	101.K.Malleesh
60.K.Raja Reddy	102.Shaik Madar
61.Smt.Mallamma	103.K.B.Balraj
62.Anjaiah	104.K.Sathi Reddy
63.Ellaiah	105.Venkatesh
64.P.Narsimha	

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Versus

1. Chief Personnel Officer,
SC Rlys, Rail Nilayam, Sec'bad.
2. Divisional Rlys Manager (P),
MG Division, Sec'bad.
3. Divisional Engineer, MG Division,
Sec'bad.
4. Asst.Engineer (Water Works),
MG Division, Sec'bad.
5. I.O.W. (Garden), Hyderabad,
(Inspector of Works), MG Division,
Sec'bad.

.....Respondents

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DA 371/92.

1. Narsimha	18. Narasimha
2. R.Durai Swamy	19. Eswar
3. Iylaiah	20. B.Chandrasekhar
4. Malleh	21. Komaraiah
5. Somaiah	22. M.Sambiah
6. Ramaswamy	23. Narsimloo
7. K.Moses	24. M.Chandran
8. Yadagiri	25. T.Kumaraswamy
9. Bikshapathy	
10. E.Satyanarayana	
11. B.Sarveswara Rao	
12. Anna Rao	
13. M.Narasimha	
14. Sunder	
15. Malleh	
16. Mysaiah	
17. Mohd.Kamruddin	

.....Applicants

Versus

1. The Divisional Railway Manager (P),
SC Rlys, Hyderabad MG Division, Sec'bad.
2. The Asst.Engineer (Buildings),
SC Rlys (MG), Sec'bad.
3. The Asst. Store Keeper, Hyderabad (MG)
Division, SC Rlys, Near Rai Nilayam, Sec'bad.
4. The General Manager, South Central Rlys,
Rail Nilayam, Sec'bad.
(R-4 is implemented as per court order
dt.17-8-93)

.....Respondents

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DA 973/93.

1. P.C.Ramanaiah
2. N.Sreenivasulu

....Applicants

Versus

1. The General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. Divisional Railway Manager,
SC Rlys, Vijayawada.
3. Sr.Divisional Personnel Officer,
SC Rlys, Vijayawada.

....Respondents

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DA 977/93.

1. V.Devaiah
2. Johan Prakash
3. K.Rambabu
4. Sk.Subhani
5. B.Balajee Singh
6. Mohd.Ismail
7. Mohd.Sk.Babjee
8. E.Appa Rao
9. P.Shyama Sundar Rao

....Applicants

Versus

1. The Chief Personnel Officer,
SC Rlys, Rail Nilayam, Sec'bad.
2. Divisional Railway Manager (P),
SC Rlys, Vijayawada.
3. Sr.Divisional Personnel Officer,
SC Rlys, Vijayawada.

....Respondents

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DA 1192/92.

1. Komaraiah	9. Satyanarayana
2. B.Ramaswamy	10. Narasimha Chari
3. B.Satyanarayana	11. B.C.Bikshapathy
4. M.Yadagiri	12. B.Murali
5. G.Bikshapathi	13. G.Krishna
6. Somraj	14. N.S.R.Anjaneyulu
7. Vidyanath	15. R.Shankar
8. Mallesh,	16. E.Shankara rao

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17.Eswaraiah 38.G.L.Yadagiri
18.V.Veeraiah 39.Mutyaloo
19.M.Bhikshapathy 40.B.Bhikshapathi
20.Kantaiah 41.Narahari
21.K.N.Satyanarayana 42.R.Prabhakar
22.Smt.Vijayalakshmi 43.K.Pochiah
23.Ramulu S/o Malliah 44.D.Satyanarayana
24.Chandraiah 45.Krishna S/o Ramulu
25.V.Satyanarayana 46.Bikshapathi s/o Ramaiah
26.Ramulu S/o Chandraiah 47.Ramulu S/o Narasimha
27.D.Ramachander 48.V.Satyanarayana Murthy
28.B.Chandraiah 49.Buchi Reddy
29.G.Satyanarayana 50.Chandraiah
30.Devender 51.Ram Shankar
31.Eraiah 52.V.Narasimha Rao
32.Y.Chandrasekhar 53.S.Mallaiah
33.Narsing 54.G.Anji Reddy
34.D.Arjun 55.R.Ganga Rao
35.G.Narsaiah
36.S.Anand Prasad
37.N.Raghava Reddy

.....Applicants

Vs.

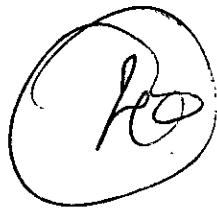
1. General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. Divisional Railway Manager (P),
SC Rlys, Sec'bad Division, Sec'bad.
3. Divisional Engineer, SC Rlys,
Sec'bad Division, Sec'bad.
4. Asst.Engineer (Water Works),
Sec'bad Division, SC Rlys, Sec'bad.

.....Respondents

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1/10/2014

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Counsel for the Applicants : Shri P. Shridhar Reddy in
(OA 1133/91)

Shri V. Sudhakar Reddy
(in OA OA 977/93)

Shri P. Krishna Reddy
(in all other cases)

Counsel for the Respondents : Shri J.R. Gopal Rao, SC for Riya
(in OA 973/93)

Shri N.R. Devraj, SC for Riya
(in all other cases)

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CORAM:

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

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

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(Circular stamp with handwritten 'Feb' inside)

OA.829/91; OA.1133/91
OA.83/92; OA.90/92; OA.93/92; OA.370/92; OA.371/92
OA.973/93; OA.977/93; and OA.1192/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri P. Krishna Reddy, and Sri V. Sudhakara Reddy, learned counsels for the applicants and Sri N.R. Devaraj, and J.R. Gopal Rao, learned counsels for the respondents.

2. As the points which arise for consideration in all these OAs are same, they can be conveniently disposed of by a common order.

3. The applicants in all these OAs were engaged as Casual labours in Group-D service in various seniority units of South Central Railway.

4. Para 2511(a) (1990 Edition) (para 2005 of old edition) of Indian Railway Establishment Manual (IREM) had been amended by order of the Railway Board dated 7-5-1983 and after amendment it reads as under :

"Casual labour treated as temporary are entitled to all the rights and benefits admissible to temporary railway servants as laid down in Chap. XXIII of the IREM the rights and privileges admissible to such labour also include the benefits of Disciplinary and Appeal Rules. However, their service prior to absorption in temporary / permanent regular cadre after the required selection / screening will not count for purpose of seniority and the date of their regular appointment after screening /selection shall determine their seniority vis-a-vis other regular employees. This is, however, subject to the proviso that if seniority of certain individual employees has

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already been determined in any other manner either in pursuance of judicial decision or otherwise the seniority so determined shall not be altered. Casual labour shall be eligible to count only half the period of service rendered by them after attaining temporary status on completion of 120 days continuous employment and before regular absorption as qualifying service for the purpose of pensionary benefits. Such casual labour who had attained temporary status will also be allowed to carry forward the leave at their credit to the new post on absorption in regular service. Daily rated casual labour or labour employed on projects will not be entitled to these benefits."

5. The said provision prior to the above amendment laid down that " Casual labour treated as temporary are entitled to all the rights and privileges admissible to temporary Railway servants as laid down in Chapter.XXIII in IREM..... their service prior to the date of completion of six months continuous service will not, however, count for any purpose like retirement benefits, seniority, etc.... ...".

6. Thus, it is manifest that prior to the amendment, the service from the date of conferment of temporary status was reckoned for the purpose of seniority, while ^{as per} ~~from~~ the date of amendment the service from the date of regularisation ^{alone has to be} ~~was~~ reckoned for the purpose of seniority.

7. The question is as to whether the amendment as per Railway Board order dated 7-5-1983 is prospective or

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retrospective had arisen for consideration in Writ Petition No, 4058/82 on the file of AP High Court. The said writ petition was disposed on 20-10-1984 by holding that the said amendment was prospective ~~in pursuance of the~~ ^{disposed} said judgement, this Bench of CAT ~~held in~~ TA.565/86 and some other TAs and QAs by giving directions in accordance with the directions in the judgement dated 20-10-1984 in W.P.4058/82.

8. But the Supreme Court held in 1993(1) SLR 550 (Smt. V. Kameshwari versus Union of India and others) that the amendment as per Railway Board order dated 7-5-1983 ~~held~~ that "under the amended provision of Para.2511(a) ^{corresponding to} of 1990 edition ~~and 2005 of old edition~~ the seniority of casual labour treated as temporary who are subsequently absorbed in temporary / permanent cadre has to be reckoned on the basis of the date of their regular appointment after screening / selection and the service prior to absorption in temporary / regular cadre after the required selection / screening would not count for the purpose of seniority. The only exception that has been made is in respect of the employees whose seniority had already been determined ~~in any other amendment~~ either by any judicial decision or otherwise and it is provided that the seniority was determined shall not be altered."

9. Thus, ^{The question} ~~in~~ considering as to whether seniority had to be reckoned from the date of conferment of temporary status or from the date of regularisation, in regard to those who are initially engaged as casual labour, depends upon the ^{fact} ~~question~~ as to whether the seniority list in regard to the concerned seniority unit was finally published

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or whether judicial decision was given in regard to the same.

10. The next question that naturally arises is as to whether the ~~said finalisation of judicial decision~~ ^{is a decision} ~~should~~ ^{be} ~~be~~ ^{the amendment} by 7-5-1983 or by 12-1-1993, the date of the judgement of the Supreme Court in 1993 (1) SLR 550. The various judgements given by the AP High Court and this Tribunal which were delivered subsequent to 7-5-1983 and before 12-1-1993 had become final. It is stated for the respondents that in pursuance of these judgements and orders, the concerned authorities revised the seniority lists in compliance with those judgements and orders ^{the applicants transferred} ~~in regard to~~. The general principle is that settled matters cannot be unsettled unless there are compelling reasons. Hence, we feel that in the circumstances, when the Supreme Court observed that the amendment dated 7-5-1983 is not applicable in regard to the employees whose seniority had already been determined either by judicial decision, ^{has} It ^{had} to be said that the said amendment is not applicable in regard to the seniority lists which were finalised by ~~any~~ ^{given} judicial decisions by 12-1-1993, the date of judgement of Supreme Court in the case reported in 1993 (1) SLR 550. ~~It~~ ^{If} it is going to be held that the seniority lists which were revised subsequent to 7-5-1983 and before 12-1-1993 also have to be revised in accordance with the amendment dated 7-5-1983, it will amount to setting aside the judicial decisions given by the Supreme Court and this Tribunal which had already become final. We feel that the same is not contemplated by the Supreme Court.

11. It is contended for the applicants that if revision in seniority is effected only in regard to the applicants

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in the various proceedings before the High Court and also proceedings in this Tribunal, it will be inequitable for the seniors to ~~those~~ ^{the} applicants will become their juniors. There is force in the said contention. Hence, in regard to the various seniority units in which the seniority of the applicants in the proceedings in WPs and the earlier proceedings in this Tribunal were altered only in regard to those applicants, the said revision had to be made in regard to all the employees who were similarly situated to the applicants therein.

12. In view of our above discussion, the following orders have to be given in regard to seniority:

1) The seniority lists which were revised in regard to the applicants in various Writ Petitions / TAS / OAs have to be revised in regard to the employees who are similarly situated to ~~those~~ applicants in those seniority ^{units} lists so as to reckon their service for the purpose of seniority from the date on which the temporary status was confirmed/attained.

2) In view of the judgement of the Supreme Court in 1993 (1) SLR 554, the other seniority lists which ~~were~~ had already become final need not be revised, and the seniority lists have to be prepared by taking into consideration the length of service from the date of regularisation in regard to those who were initially engaged as casual labours.

13. The other relief which is claimed in these OAs is that for the purpose of pension and retiral benefits, the total service from the date of attainment of temporary status till the date of regularisation also had to be taken into consideration and the amendment dated 7-5-1983 whereby it is stated that only half of the service had to be taken into consideration had to be held as un-Constitutional. The



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question of grant of pension, ^{The} period that has to be reckoned ^{The period in regard to} taken for pension, probation, average salary drawn, salary that had to be taken into consideration are of matters for Administration, as it is one of policy. Supreme Court held in AIR 1988 SC 390 (Ram Kumar and other Vs. Union of India and others) that "no pensionary benefits are admissible even to temporary railway servants and therefore, that retiral advantage is not available to casual labour acquiring temporary status."..... We agree with the learned Additional Soicitor General that retiral benefits of pension is not admissible to either category of employees". Hence, the contention for the applicants ^{that} portion of ^{the} the amendment dated 7-5-1983 where it was stated that only half of the service from the date of attainment of temporary status till the date of regularisation instead of taking that entire service is un-Constitutional had to be repelled.

14. In the result these OAs are dismissed. ⁱⁿ regard to the relief that the entire service from the date of attainment of temporary status till the date of regularisation in regard to such of those employees who were initially engaged as casual labour are dismissed.

15. The above OAs are ordered as under in regard to the relief about the date from which service had to be reckoned for the purpose of seniority :

a) The seniority lists which were revised in regard to the applicants in various Writ Petitions/ TAs/ OAs have to be revised in regard to the employees who are similarly situated to these applicants in those seniority lists ^{with} so as to reckon their service for the purpose of seniority from the date on which the temporary status was confirmed.

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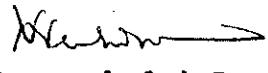
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b) In view of the judgement of the Supreme Court in 1993 (1) SLR 554, the other seniority lists which ~~were~~ ^{had} already become final need not be revised, and the seniority lists have to be prepared by taking into consideration the length of service from the date of regularisation in regard to those who were initially engaged as casual labours.

No costs.

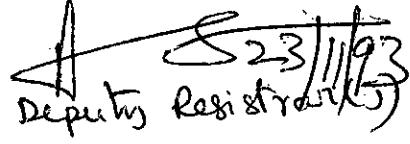


(R. Rangarajan)
Member (Admn.)



(V. Neeladri Rao)
Vice-Chairman

Dated : November 1, 1993
Dictated in the Open Court


823/11/93
Deputy Registrar (5)

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(P.T.O.)