

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA No.165/91.

Dt. of Order:24-3-94.

G.Ramnath

...Applicant

Vs.

1. Union of India rep. by
General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. Chief Personnel Officer,
SC Rlys, Sec'bad.
3. Supdt., Printing & Stationery,
Printing Press, SC Rlys, Sec'bad.
4. V.Gurunath
5. Raghunath Chari
6. Mohanan
7. Gopala Krishnan

....Respondents

Counsel for the Applicants : Shri P.N.A.Christian

Counsel for the Respondents : Shri V.Bhimanna, SC for Rlys

CORAM:

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

THE HON'BLE SHRI A.B.GORTHY : MEMBER (A)

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OA.165/91

Judgement

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

Heard Sri P.N.A. Christian, learned counsel for the applicant and Sri V. Bhimanna, learned counsel for the respondents.

2. This OA was filed praying for quashing the order dated 26-4-1990 of R-2 vide No.PSC/E/3A/Supervisory/Pt.XIII, by declaring the same as illegal, arbitrary, unjust, un-Constitutional and without jurisdiction and opposed to the Principles of Natural Justice and equity and ^{for} ~~the~~ ^{the} ~~issual~~ ^{issuance} of consequential direction to the respondents to promote the applicant forthwith to the post of Chargemen B from the year 1978 with all consequential benefits including payment of arrears of salary and for effecting promotion to the next higher cadre and for fixation of pay as per revised pay scales from time to time.

3. The facts which give rise to this OA are briefly as under :

The applicant was appointed as Khalasi on 18-6-1956 in Composing Section, Printing Press, South Central Railway, Secunderabad. The applicant was promoted as Assistant Compositor in 1966; and as compositor in 1968. He was promoted as High Skilled Grade II (HSK-II) in 1977 and promoted as HSK-I on 1-8-1978. He was promoted and redesignated as Maistry on 24-10-1980.

4. The Printing Press of South Central Railway, Secunderabad, comprises of three Sections viz.i) Composing Section, ii) Machine Section, and iii) Binding Section. Promotions from the post of Assistant Compositor to that of Chargemen-B are on the basis of the seniority in the respective sections

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while the promotions from the Chargemen-B to the cadres above ^{it} ~~today~~ are on the basis of General Seniority of Chargemen-B working in Printing Press in different sections. The Feeder posts for Chargemen-B are HSK-I and Maistry.

5. The petitioner ^{pleads} ~~realises~~ that when he was promoted to the post of HSK on 1-8-1978 there were two posts of Chargemen-B in the Composing Section and even then no steps were initiated for filling up those posts. It is ^{also} ~~is~~ pleaded for the applicant that when there was a vacancy in the post of Chargemen-B in the Composing Section and when he was senior-most and also an SC, he should have been promoted to the post of Chargemen-B with effect from 1978.

6. R-4 to R-6 the direct recruits were posted as Chargemen-B during 1982 and R-7 a direct recruit was posted as Chargemen-B during 1984.

7. In 1988 a vacancy in the post of Chargemen-B in Composing Section had arisen and then the applicant was promoted as Chargemen-B on adhoc basis. Even though the applicant was alerted and informed about the date of examination for selection of Chargemen-B, he did not attend the written test held for the same on 12-1-1990.

8. As per Recruitment Rules, prior to 27-4-1983, 50% of the posts of Chargemen-B have to be filled up by direct recruitment while the remaining 50% have to be filled up by promotion. As per amendment of ~~these~~ rules which had come into effect from 27-4-1983, the quota of direct recruits for the post of Chargemen-B was raised to 75% and correspondingly the quota for promotees was reduced to 25%.

9. It was pleaded for the respondents that all the vacancies in the posts of Chargemen-B in Composing Section from 1966 to 1992 were filled up only by promotion and it was only in 1982 for the first time R-4 to R-6 the direct recruits

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were appointed for the post³ of Chargemen-B and hence the quota for direct recruitment was not ^{extended} ~~accepted~~ when R-4 to R-6 were appointed as Chargemen-B by way of direct recruitment.

10. But it is vehemently contended for the applicant that when all posts till 1982 were filled by direct recruitment ~~till 1992~~, it had to be held that the quota rule was not followed till then and ~~for~~ vacancies from 1982 should have been filled up on the basis of quota and hence the applicant should have been promoted atleast in 1982 when ^{three} ~~four~~ posts were filled up ^{for} ~~and when~~ two alone should go ^{to} ~~the~~ direct recruits as per the quota as per extant rules. It is also urged that even assuming that 75% quota is applicable even in regard to the vacancies filled from 1982, for direct recruits, one post atleast should go to the promotees and as the applicant is the seniormost, he should have been promoted to the said post.

11. At the stage of arguments it was ^{submitted} ~~represented~~ for the respondents that R-4 alone was appointed in Composing Section while R-5 to R-7 were appointed in some other sections. It is stated for the applicant that one more direct recruit was appointed as Chargemen-B in Composing Section in 1986 and he resigned in 1988. In support of the same, copy of the order dated 12-5-1988 of the Headquarters office, Personnel Branch, Secunderabad, was produced for perusal, (the same was returned after perusal.)

12. This OA was filed on 9-11-1990 seeking ^{with effect} ~~promotion~~ from 1978. During the arguments it was stated that ~~he~~ should have been atleast promoted as Chargemen-B in the year 1982 ~~where~~ ^{when} direct recruits were appointed as Chargemen-B. In the rejoinder it was stated that the applicant filed ~~his~~ representation in

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1979, 1981, 1982, 1983, 1984, 1986, 1987, 1988 and 1989

seeking promotion to the post of Chargemen-B.

13. When it is a case of promotion and when an employee keeps quiet without taking any further steps when no reply is received on the basis of representation, the claim for promotion after a delay of number of years i.e. eight years in this case, ^{has} ~~have~~ to be rejected on the ground of ^{laches} ~~laches~~. Hence, we do not propose to consider the question as to whether it is a case of not following the quota rule till 1981 and hence the vacancies which are filled up from 1982 have to be filled up on the basis of quota rule as contended for the applicant, or whether the vacancies from the beginning i.e. 1966 onwards have to be taken into consideration in order to ^{determine} ~~adjudicate~~ as to whether the direct recruits had not exceeded the quota as urged for the respondents. // If R-4 alone was appointed in the Composing Section and R-4 to R-7 were appointed in other Sections, and as the quota rule is applicable to each section separately in regard to the post of Chargemen-B, the appointment of R-4 in composing section cannot be challenged as he is within the quota of direct recruitment. ^{The} ~~the~~ appointment of R-4 to R-7 cannot be challenged as they were appointed in other sections, and as the applicant ^{could} ~~would~~ not be promoted as Chargemen-B in the vacancies in other sections i.e. sections other than Composing Section.

14. It is true that in the reply affidavit filed for the respondents it was not stated that R-4 alone was appointed in Composing Section while R-5 to R-7 were appointed in other sections. We would have directed R-1 to R-3 to produce the relevant records in support of the ^{submission} ~~arguments~~ that R-4 ^{alone} ~~while~~ ^{was} ~~is~~ appointed in Composing section, ^{while} R-5 to R-7 were appointed in other sections, ^{if} ~~we~~ ^{had} ~~have~~ not come to the conclusion that

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dismissed
rejected.

(A. B. Gorzbi)

[Signature]
(V. Nandodni Rao)

Dated : March 24, 1994

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Copy to:-

1. General Manager, S.C.Railway, Union of India, Rail Nilayam Secunderabad.
2. Chief Personnel Officer, S.C.Railways, Sec'bad.
3. Supdt. Printing & Stationery, Printing Press, S.C.Rlys, Sec'bad.
4. One copy to Sri. P.N.A.Christian, advocate, 10-3-P-114/A, Addagutta, East Marredpalli, Secunderabad-26.
5. One copy to Sri. V.Bhimanna, SC for Railways, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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O.A. 165/91

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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. A. B. GORTHI : MEMBER (A)

AND

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

AND

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

Dated: 27/3/1994

ORDER/JUDGMENT: _____

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

O.A. No.

165/91

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.

Central Administrative Tribunal
DESPATCH

18 APR 1994

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HYDERABAD BENCH.

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