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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA converted into CP. 43/93

D.A.No.320/91.

vide court order
dt. 6-7-93.

Dt. of Decision: 6-7-93.

1. R.Venkateswara Rao
2. T.Ramesh
3. D.Narasinga Rao
4. R.G.Kanakaraj
5. Madan Mohan Patro
6. K.Lakshminarayana Rao
7. S.Ramanuja Rao
8. A.V.S.Devi Charan
9. S.Gopala krishna Murthy
10. P.S.R.Murthy
11. B.Sai Ram Mohan Reddy
12. P.Diwakar Babu
13. M.Ramanujaneyulu
14. L.Vijay Kumar
15. S.B.Venkata Krishna
16. C.Nanda Kishore
17. K.Amarnath
18. Mohd.Issaq
19. MSVSS Sarma
20. Shaik Abdul Khader Basha
21. U.Nageswara Rao
22. G.Sathyasai
23. K.Bhaskara Rao
24. R.Shankar Reddy

...Applicants

Vs.

1. Union of India rep. by the Chairman,
Railway Board, New Delhi-110 001, Rail Bhavan.
2. The General Manager, SC Railway,
Rail Nilayam, Secunderabad-500 025.
3. S.Jaganmohan Rao
4. R.S.Joseph
5. Syed Rahmullah Hussain
6. M.Rajendra Prasad
7. A.Saty anarayana
8. T.Venkateswarlu
9. Syed Hussain Saheb
10. V.Rajeswar
11. J.Narasinga Rao

...Respondents

Counsel for the Applicants : Shri C.Suryanarayana
Counsel for the Respondents : Shri V.Bhimanna for RR 1 & 2
Shri S.Udayachala Rao for
RR 3 to 11

.. ..

CORAM:

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

THE HON'BLE SHRI P.T.THIRUVENGADAM : MEMBER (A)

(Order of the Divn. Bench passed by Hon'ble
Justice Shri V.N.Rao, Vice-Chairman).

.. ..

All these applicants applied in pursuance of the notifications issued by the Railway Recruitment Board from 1983 to 1986 for the posts of Traffic/Commercial apprentices. In the said notifications the scale of pay was referred to as Rs.455-700. On being selected as Commercial Apprentices they were being posted to various posts in the Commercial Department and they were given the revised pay scale of Rs.1400-2300 which had come with effect from 1-1-86. In 1987 the Railway Board issued a notification prescribing the scale of Rs.1600-2660 for those who are appointed after apprenticeship as Traffic/Commercial Apprentice. The Traffic apprentices who were selected on the basis of the examination conducted prior to 15-5-87, The date of the notification of the Railway Board were not given the scale of Rs.1600-2660. Then some of them moved the Madras Bench in OA 488/87 and OA 322/88 praying

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that they too should be given the pay scale of Rs.1600-2660. The Madras Bench allowed these OAs by its order dt.4-12-89. The Respondents there in filed Review Application No.31/90 praying for review of order dt.4-12-89. While dismissing it, the Madras Bench observed as under :-

"It is therefore applicable to the entire category of Traffic/Commercial Apprentices in service as on date when the new scheme came into operation. The Respondents will therefore have to implement the order in the context of all those recruited under the old scheme".

2. Some of the Traffic Apprentices who were recruited prior to 15-5-87 filed OAs 451 & 548/91 before Bangalore Bench praying for a direction to the Respondents to pay them in the pay scale of Rs.1600-2660. The Bangalore Bench referred the above OAs to the Full Bench by observing that there is conflict of opinion between the order dt.4-12-89 in OAs 488/87 and OA 322/88 of the Madras Bench, and the order dt.29-8-91 in OA 920/88 of Bombay Bench which was dismissed. When the matter had come up before the Full Bench, the relevant portion of the order in the R.A.31/90 of the Madras Bench was brought to its notice. Then it was observed as under by the Full Bench :-

"Hence it is not possible to accede to the contention that the benefit of the Judgment of the Madras Bench is restricted to the applicants therein. In view of the directions in the

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Review Application Judgment
the entire class of employees who
were similarly situated are
required to be given the benefit
of this decision whether or not
they were parties to the original
proceedings. The obligation cast by the judgment on the Railway Administration will continue until all the persons who are the beneficiaries of the judgment are accorded the benefits.

In a situation like this where the Tribunal had directed that the benefit of its judgment should be accorded not only to parties before it but to others who belong to same category like the applicants, the said judgment could ensure for the benefit of every one who belongs to same category. In other words it must be deemed to be a judgment in favour of all persons belonging to same category. Such of these who have a judgment in their favour cannot agitate for the same relief in fresh original proceedings under section 19 of the A.T. Act, 1985. If the judgment is not carried out for the parties concerned, the remedy available is to enforce the judgment in proper forum." (Emphasis is supplied).

The applicants in this case were selected as Commercial Apprentices prior to 15-5-87 and some of them were posted in various categories in Commercial Department prior to 15-5-87, while others were posted in those sections after 15-5-87. The applicants in OA 488/87 and 322/88 of Madras

Bench were selected as Traffic Apprentices prior to 15-5-87. The notification dt.15-5-87 issued by the Railway Board for fixing the pay scale Rs.1600-2660 is applicable for both Traffic Apprentices and also Commercial Apprentices. While passing the order in R.A.31/90 the Madras Bench held that the benefit of the order dt.4-12-89 in OA 322/88 would enure to the benefit of Commercial Apprentices also.

3. It is significant to note that it is 'Railway Administration' ^{that} is under an obligation to implement the order in OA 322/88 in regard to all the employees concerned by order in RA 31/90. It is not stated by Full Bench that it has to be implemented only in regard to employees in Southern Railway. When the relevant scale is applicable to all the concerned employees in all zones in Indian Railways, and when the order in OA 322/88 was made applicable even to non applicants, and when there is no indication either in order in RA 31/90, or order of Full Bench that it is limited to concerned employees in Southern Railway only, it is just and proper to hold that the order in OA 322/88, ^{to} enures ^{also} to concerned employees in all zones as envisaged in order in RA 31/90. It is thus evident that it is/a judgment in favour of the applicants herein, who are Commercial Apprentices.

4. In O.A.451 & 548/91 on the file of the Bangalore Bench it was held by the Full Bench that when there is

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already a judgment in favour of the applicants and if that judgment is not implemented, their remedy is to file the Contempt Petition. M.A.S.R. 789/93 was filed praying for treating this O.A. as Contempt Petition.

5. Sri S.Udayachala Rao, counsel for the applicants for the intervening respondents (respondents 3 to 11) submits that when this O.A. is held to be not maintainable the same has to be dismissed then it may be open to the applicants to file a separate Contempt Petition.

6. This O.A. was filed on 25-3-91 and it is within one year from 12-4-90 i.e. the date of the order in RA 31/90 in OA 322/88 and thus it is within time and it can be treated as Contempt Petition. If the applicants have to be driven to file contempt petition, the question of limitation may arise. If the names of Respondents 3 to 11 herein i.e. the intervening Respondents are struck off without prejudice to their rights to seek such remedy that are open to them, they cannot have any grievance.

7. In these circumstances the names of Respondents 3 to 11 are struck off and the O.A. is converted into contempt petition. It is open to the applicants to come up with the necessary amendments if they are so advised. It is open to the Respondents 1 and 2 to file necessary counter

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if any. Original Application is ordered accordingly.

No ~~ex~~ costs.

8. M.A.S.R.789/93 is also ordered accordingly.

P. J. Thiruvengadam

(P.T.THIRUVENGADAM)
Member (A)

V. Neeladri Rao
(V.NEELADRI RAO)
Vice-Chairman

Dated: 6th July, 1993.
Dictated in Open Court.

Deputy Registrar (J)

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To

1. The Chairman, Railway Board, Railbhavan,
Union of India, New Delhi-1.
2. The General Manager, S.C.Rly. Railnilayam, Secunderabad-25.
3. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
4. One copy to Mr.v.Bhimanna, SC for Rlys. CAT.Hyd.
5. One copy to Mr.S.Udayachala Rao, Advocate, Plot No.61
S.B.I.Officers colony, Musarambagh,Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

Thiruvengadam
P.T. Thiruvengadam
7.7.93