

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BRANCH  
AT HYDERABAD.

G.A.No: 772/91.

Dt: of Decision: 19.7.94.

MA No: 308/94

1. M.A. Anwar Basha

2. K. Omkumar

3. Suman Ghosh

4. K. Maheswar

Applicants

and

1. Union of India per General  
Manager, SC Rly, Rail Nilayam,  
Secunderabad.

2. Divisional Railway Manager,  
SCRly, Hyderabad Meter Gauge,  
Opp. Rail Nilayam,  
Secunderabad.

Respondents

Counsel for the Applicants : Mr. G. Remachandra Rao

Counsel for the Respondents: Mr. N.V. Ramana, Addl.

CGSC\*

CORAM:

The Hon'ble Shri A.V. HARIDASAN : MEMBER (JUDL.)

The Hon'ble Shri A.B. GORTHI : MEMBER (ADMN.)

M.A.No: 305/94

QA NO: 772/91

O R D E R

(As per the Hon'ble Sri A.V.Haridasan, Member (J) )

Heard Sri G.Ramachandra Rao, learned counsel for the applicants and Sri Rajeshwar Rao, learned counsel for the respondents.

2. The grievance of the applicants in this case is that the respondents are refusing to consider the applicants for promotion to the post of Station Master Gr. I (Rs. 2000-3200) though in all respects eligible under the rules to be considered for selection. A notification was issued on 19.6.91 proposing to fill up 11 vacancies of Station Master of Gr. I (Rs. 2000-3200) by a selection process involving Written Test and Viva-Voce. Along with the notification a list of Station Masters Gr.II in the Scale of Rs. 1600-2660 who are eligible to participate in the selection process was enclosed. The names of the applicants were not included in this list. Therefore the applicants on 28.7.91 made a representation (Annexure-C) to the Divisional Railway Manager (Meter Gauge), Hyderabad requesting that their names should also be included in the list of candidates who are eligible to take examination to be held on 10.8.91. Finding no response to this representation the applicants filed this application u/s 19 of the A.T.Act praying that a direction may be issued to Respondents to allow the applicants also to participate in the selection to the post of Station Masters Gr. I in the scale of Rs. 2000-3200.

3. At the time when the OA was file on original application filed by the applicants along with some other persons, OA No: 69/91 praying for fitment and absorption in the scale of Rs. 1600-2660 w.e.f. 15.5.87 was pending decision. However, in the representation made prior to filling of this application the applicants had invited the attention of the authorities to the decision on this aspect by various other Benches of the Tribunal.

4. When the application came up for final hearing today, the learned counsel for the respondents submits that a reply statement has been filed, But we do not find the reply on the judicial file. However, we find that a rejoinder had been filed by the applicant. However to understand the grounds on which the allegations is assisted, we have perused a copy of the said response sheet statement produced for our perusal by the learned counsel for the respondents.

5. We have gone through the material on records and heard the counsel for both the parties. It is said in dispute that OA No: 69/91 has been disposed of by this Bench of the Tribunal allowing their prayer as applicants therein which include the applicants in this case for fitment or absorption in the scale of pay of Rs. 1600-2660 w.e.f. 15.5.87. However, if it is found that the applicant enters to the grade of Asst. Station Masters in the Scale of Rs. 1600-2660 w.e.f. 15.5.87, then there would be no doubt that they are eligible to take the examination for selection for the post of Station Master in the Scale of Rs. 2000-3200. In this context, it is worthwhile to

extract the operative portion ~~of~~ of the judgement in O.A. No: 69/91 which speaks as follows:

"In the result we direct that the fitment on observation of Railway Board's Lr. No: E(NG)2/84/RC-3/15 IAIRF) dt. 15.5.87 should be given to the applicants w.e.f. 15.5.87 should be given to the applicants w.e.f. 15.5.87 with consequential monetary benefits. This has been done without putting them through any final retention test. We also direct that the fitment should be done and arrears disbursed within a period of 90 days from the date of receipt of this order. There is no order as to costs".

6. It is not in dispute that the fitment sought for by the applicants in their case was in the cadre of ASMs in the scale of Rs. 1600-2660 and this position is evident from the paragraph-2 of the above judgement also. Therefore a perusal of judgement in OA ~~4/91~~ 60/91 leaves no doubt regard the fact that w.e.f. 15.5.87 the applicants therein including the applicants in this case have entered the cadre of ASM in the scale of Rs. 1600-2660 w.e.f. 15.5.87. The arguments advanced by the respondents is that the judgement having directed only on grant of consequential monetary ~~and~~ benefits, it has to be deemed that the other consequential benefits such as seniority etc., not being asked by the applicants has not been granted. It is inter alia contended claim of the applicant for seniority on the basis of the is barred by resjudicate. It is contended that as the applicant in OA did not pray for seniority and other benefits, the applicants are barred by principles of constructive resjudicate in claiming the same in this OA. We are unable to

accept this argument. In OA NO: 69/91 the applicant had sought fitment in the scale of Rs. 1600-2660 with consequential benefits w.e.f. 15.5.87. The same has been granted to them with a narrow interpretation of the operative part of the Judgement, it has been contended that "with consequential monetary benefits" would mean that only monetary benefits, and that the applicants have not been granted other consequential benefits of fitment in the grade. We are of the considered view that this narrow interpretation is untenable and it should be understood that the applicants have been granted fitment in the scale of Rs. 1600-2660 w.e.f. 15.5.87 with all other benefits which flow from such a declaration.

7. In the light of what is stated above, we find that the applicants are bound to succeed in this application. As the applicants have entered the scale of Rs. 1600-2660 in the cadre of ASM w.e.f. 15.5.87, they should also have been allowed to participate in the selection process. Now we understand that pursuant to an interim order of this Tribunal, the applicants also have been allowed to participate in the selection process and that their result have not been announced. Therefore, what remains further is the declaration of their results and taking further action pursuant to that.

8. In the result, the application is allowed in part. It is declared that the applicants is also eligible to participate in the selection process for the post of Station Masters Gr. I in the scale of Rs. 2000 - 3200. The respondents are directed to declare the results of the applicants, and if any of the applicants are found selected they should be offered the promotion in accordance with the

extent rules. The applicants should also be considered for promotion to the upgraded post of Station Masters Gr. I w.e.f. 1.3.93, and if found eligible appointed accordingly with all consequential benefits. The applicants filed MA No: JO5/94 seeking consideration for promotion to the upgraded post of Station Masters w.e.f. 1.3.93 with all consequential benefits. The M.A. also stands disposed in accordance with the above directions. The directions, as forestated should be complied with within a period of two months from the date of receipt of copy of this order. No order as to cost.

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COSR 3379/95  
Cm UA 772/95

DT. 9-2-95

D. J. U. on 16-2-95

DRAN  
OC(A)

AT JNT  
V2

B. P.

DR (C).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : AT HYDERABAD

CONTEMPT APPLICATION NO.

OF 1994

in

CONTEMPT CASE NO.

772 OF 1994

Application filed under Section 11 and  
12 of Contempt of Courts Act Read with  
Section 17 of Central Administrative  
Tribunal (Procedural) Rules, 1986.



G. Ramachandra Rao  
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