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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::HYDERABAD BENCH::

O.A.No.804/1991.

Date: 1-9-93.

K. Visagamani

.. Applicant

And

1. Union of India, rep. by
General Manager, South Central
Railway, Rail Nilayam, Sec'bad.
2. Chief Personnel Officer, South
Central Railway, Rail Nilayam,
Secunderabad.
3. Railway Board represented by its
Chairman, Rail Bhavan, New Delhi. .. Respondents

APPEARANCE:

For the applicant : Sri G.Ramachandra Rao, Advocate

For the respondents : Sri N.V.Ramana, Addl. CGSC

CORAM:

THE HON'BLE MR.JUSTICE V.NEELADRI RAO, VICE-CHAIRMAN

THE HON'BLE MR. P.T. THIRUVENGADAM, MEMBER (ADMN.)

[JUDGMENT OF THE BENCH AS PER HON'BLE SRI P.T.THIRUVENGADAM,
MEMBER (ADMN.)]

The applicant is working as Assistant Mechanical Engineer (Machinery and Plants) Headquarters, South Central Railway, Secunderabad. In the selection held for forming a panel in the year 1981 for Group 'B' posts in Mechanical Departments, the applicant appeared and ^{was} placed at 11th position in the provisional empanelment announced vide South Central Railway letter No.P.607/GAZ/Mech. dt. 23.4.1981. In the medical examination that followed, the

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applicant could not come upto the requisite medical standards due to low colour perception and hence he was not regularised in Group 'B' panel. On representation from the applicant, he was promoted in Group 'B' on adhoc basis by proceedings issued by South Central Railway bearing No.P.675/GAZ/Mech. dt. 24.12.1981. At the time of issuing the promotion order the following conditions were imposed:-

"The promotion of Shri K.Visagamani to Class-II service as adhoc, he will continue in Class-II service so long as post conforming to his suitability is available and on the understanding that a senior person may have to wait for a suitable post being available in such cases.

Sri K.Visagamani is being promoted with relaxed standard, as a special case and relaxation would not entitle him to be considered for continuance in Class-II service as a regular measure or for advancement to Class-I service.

Note: Shri K.Visagamani, on promotion to Class-II service, should be utilised in duties not including the use of trollies on the open line, train working observance of signals etc. and should be utilised only on such duties where his defective colour vision would not be an impediment."

The applicant has been continuing in this capacity in various Group 'B' posts in Mechanical department.

2. Group-B officers who put in more than 3 years regular service in Group 'B' are eligible to be considered for adhoc senior scale promotion subject to fulfilling the other conditions. During the years 1987 and 1988 officers empanelled in Group 'B' along with the applicant as well as those empanelled in the subsequent panel got promoted to senior scale. The applicant made a representation to R-1 on 22.4.1988

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claiming that he should also be considered for promotion and ^{also} quoted few instances where Officers selected with relaxed medical standards had been given promotion to the next higher post. This was followed by reminders. R-1 forwarded the representation of the applicant dt. 22.4.1988 to R-3 suitably recommending the case of the applicant for consideration for promotion to senior scale. However, 3rd respondent in his proceedings bearing No.E(GP/90/1/88 dt. 6.11.1990 rejected the representation. Aggrieved by this, this O.A. has been filed with a prayer for a direction to the respondents to declare the applicant as deemed promoted to the senior scale on adhoc basis when his immediate junior was promoted to the said scale with all consequential benefits.

3. It is the case of the respondents that appointment of medically unfit employees in Group 'B' is purely on temporary basis. ~~As~~ Such employees are promoted on clear understanding and on giving an undertaking to the effect that they have no right for further advancement or even of continuation in Group 'B' post. From administrative point of view also, at Group 'A' level it would not ^{be} feasible to ^A restrict the duties of the Officers as to completely avoid their coming into contact with trains working or use of trollies, observance of signals etc. In view of this position, R-3 had issued a letter No.E(GP)80/2/8 dt. 31.10.1991 whereby the policy of giving adhoc promotions to medically unfit employees to Group 'B' post has been reviewed and revised and such an adhoc promotion has been totally stopped. Under the said letter the medically unfit employees are excluded even before the holding ^{of the} ~~Viva-Voce~~ test in the course of selections.

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4. The respondents further averred that for consideration for adhoc promotion to senior scale 3 years regular service in Group 'B' is required and since the applicant had been posted to Group 'B' on adhoc basis, further promotion to senior scale is not possible as this would amount to two adhoc promotions, not permissible under rules. (56)

5. Admittedly, there are posts in senior scale not requiring the fulfilment of the full medical standards. At the time of recommending the case of the applicant for consideration by the Railway Ministry the Local Zonal Railway had enumerated the list of posts in the promotion grade which could be filled by candidates with relaxed medical standards. Hence, the issue of non-availability of suitable posts for promotion of the applicant does not arise.

6. The applicant alleges that there are several cases where Group 'B' Officers promoted to Group 'B' on relaxed medical standards have been given further promotion to senior scale. He cited five specific cases in this regard. In the counter filed, some explanation is given with regard to only two of these five cases and it has been mentioned that the officers ^{were} who are regularly promoted to Class-II, even at the initial stage. With regard to third case quoted, it has been denied that there is ^{an} ~~no~~ officer of that name in the said Zonal Railway. There has been no reference with regard to last two cases. Sufficient time was given to the respondents to produce their remarks with regard to the cases viz. Sri B.D.Gour and Sri B.K.Das who were alleged to have been promoted to senior scale in N.F.Railway despite their being empanelled in Group 'B' on ...5/-

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medically relaxed standards. Respondents were given time on 16.7.1993 to furnish their remarks by 13.8.1993. Again, on 13.8.1993 when the case came up for final hearing and orders, further time was given upto 23.8.1993. The learned counsel for the respondents mentioned on 23.8.1993 that the remarks are not yet ready. Nor could he indicate as to whether remarks on these two cases could be produced in reasonable time. It has to be presumed that the practice of considering officers placed in Group 'B' with relaxed medical standards for further promotion has been in vogue. It is also on record that even the General Manager, South Central Railway had recommended to Railway Board that the case of the applicant for promotion to senior scale may be considered.

7. In the above circumstances, it would be just and proper if the case of the applicant for promotion to senior scale on adhoc basis is re-considered by R-3 keeping in ^{view} ~~mind~~ the practice that was being followed.

8. The O.A. is ordered accordingly. No costs.

P. J. Thiruvengadam

(P.T.Thiruvengadam)
Member(Admn.)

V. Neeladri Rao

(V.Neeladri Rao)
Vice-Chairman

Dated 18 Sept '93

Grh.

Deputy Registrar(J)

To

1. The General Manager, Union of India, S.C.Railway, Railnilayam, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad
3. The Chairman, Railway Board, Rail Bhavan, New Delhi.
4. One copy to Mr.G.Ramachandra rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.v.Ramana, Addl CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

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

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 11 - 9 - 1993

~~ORDER~~ JUDGMENT:

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

O.A.No.

T.A.No.

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(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.

