

(A.R.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

O.A.No.838/91

Date of Judgement: 24.9.93

Between:

D.Venkateswara Rao

.. Applicant

AND

1.General Manager, South Central  
Railway, Rail Nilayam, Secunderabad.

2.Railway Board represented by its  
Secretary, New Delhi.

3.Union of India represented by its  
Ministry of Railways, New Delhi.

4.P.V.S.Naidu, Senior Divisional Engineer,  
S.C.Railway (Construction)  
Raichur, Karnataka State.

5.K.N.Gundu Rao, Deputy Chief Engineer,  
Konkan Railway,

.. Respondents

Counsel for the Applicants : Mr.V.Rama Rao

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

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CORAM:

THE HON'BLE MR.JUSTIVE V.NEELADRI RAO : VICE-CHAIRMAN

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

Contd., .2.

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(H5)

OA.838/91

date of decision: 24.9.1993

Judgement

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

Heard Sri V. Rama Rao, learned counsel for the applicant and Sri N.V. Ramana, learned counsel for the respondents.

2. The applicant was promoted to the post of Assistant Engineer (Grade-B) in October, 1969. He was promoted to the post of Divisional Engineer (Senior scale, Group A) on ~~odhoc~~ basis in October, 1981. Charge memo dated 2.5.1988 was issued to the applicant. The DPC met on 16.11.1989 for consideration for promotion of the Assistant Engineers (Group-B) to Junior Scale in Group -A. As by that date, the disciplinary proceeding against the applicant in pursuance of charge memo dated 2.5.88 was pending the result in regard to the applicant was kept in sealed cover. Order of censure was passed on 30.3.1990 after the inquiry. The applicant preferred appeal on 2.5.1990 and it was withdrawn on 19.8.1990. The second DPC met on 10.4.91, and then the applicant was promoted to Junior scale Group-A. He was continued in senior scale Group-A even after that promotion.

3. This OA is filed on 27.8.1991 praying for a direction to the respondents to treat the applicant as promoted to the junior scale of IRSE with effect from 27.11.1989 with all consequential service benefits including the promotion and seniority. The applicant retired from service on 31.8.92.

4. The learned Standing Counsel for the respondents referred to paragraph 3.1 and 7 of the DOP's office memorandum No.22011/2/86/Estt.(A), dated 12.1.1988 wherein it is stated that if any penalty is imposed as a result of disciplinary proceedings, the findings of the earlier DPC in the sealed cover shall not be acted upon and the Government Servant's case for promotion can be considered by the next DPC only, in the normal course, to urge that in this case the applicant

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was punished and as such the sealed cover of the earlier DPC meeting cannot be urged upon, and hence the contention for the applicant is not ~~tenable~~.

5. The Railway Board's letter No. E(D&A)/88/RG-6-21 dated 2.7.1990 relied upon for applicant, states that the benefits of the sealed cover can be given in case of adhoc promotees from Group-B to Group-A, and even in Group-A, in case the inquiry ended with minor penalties such as censure, recovery from pay and withholding of increment, etc. But the said letter dated 2.7.90 is not applicable in this case, for it is <sup>a</sup> case of consideration for regular promotion from Group-B to Group-A wherein the promotions will be considered by DPC headed by a Member of the UPSC. Further, letter dated 2.7.1990 is not applicable for it is not retrospective in operation, and as this is a case where the earlier DPC met on 18.11.1989 and even the punishment made on 30.3.1990 was long before the relevant letter dated 2.7.1990.

6. It has to be further seen that the applicant would not have gained monetarily either while he was in service or after retirement, even if his promotion to junior scale of Group Awas on 16.11.1989. As already observed, even by 16.11.1989, the applicant was working in senior scale of Group-A on adhoc basis and he continued to work in that scale by the date of retirement. The next promotion is to Junior Administrative cadre (JAC). For regular promotion to the said cadre i.e. JAC, the minimum period of regular service in Group-A should be for eight years. There is a provision for giving weightage of five years for reckoning eligibility period of eight years, if the employee worked for more than ten years, in regular Group-B service. If the said period is less than ten years 50% of the same has to be given as weightage. Of course, the applicant would have got the weightage of five years. But his regular service in Group-A would have been less than

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three years even if he was promoted to Junior scale Group A on 16.11.1989 for he retired on 31.8.1992. Hence, he would not have been eligible for regular promotion to the cadre of JAC even if he were promoted to Junior scale in Group-A as on 11.6.1989.

7. Of course, the applicant would have the ~~change~~ of being promoted to JSA on adhoc basis, and in such a case charge allowance alone would have been given and the same would not have been counted for pension. As the applicant retired from service, there is no question of giving any direction for consideration for adhoc promotion of the applicant to Junior Administrative cadre.

8. Hence, for disposal of this OA, there is no need to consider as to whether the Railway Board's letter No.210/88 dated 21.9.1988 is arbitrary.

9. In the result, the OA is dismissed. No costs.

P. J. L.

(P.T. THIRUVENGADAM)  
Member (Admn.)

Xeladri  
(V. NEELADRI RAO)  
Vice-Chairman

Dated : September 24, 1993.  
Dictated in the Open Court.

8/3/93  
Deputy Registrar (J)

sk/ad

To

1. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
2. The Secretary, Railway Board, New Delhi.
3. The Ministry of Railways, Union of India, New Delhi.
4. One copy to Mr.v.Rama Rao, Advocate, 3-6-779, Himayatnagar, Hyd.
5. One copy to Mr.N.v.Ramana, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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16/9/93  
P.C.P.