

56

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.859/91

date of decision : 23-6-1993

Between

1. T. Munirathnam
2. S. Tilak Kumar Babu
3. S. Badruddin Basha : Applicants

and

1. Union of India, rep. by the
General Manager
South Central Railway
Railnilayam
Secunderabad

2. Dy. Chief Mech. Engineer
Carriage Repair Shops
South Central Railway
Tirupathi , Chittoor Dist.

3. Workshop Personnel Officer
Carriage Repair Shops
South Central Railway
Tirupathi, Chittoor Dt. : Respondents

Counsel for the applicants : Parties in person

Counsel for the respondents : D. Gopal Rao, SC for
Railways

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HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

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

✓ Heard parties in person and Sri D. Gopal Rao, learned
counsel for the respondents.

2. When Tirupathi Carriage workshop had come into existence,
the employees who are working in various divisions were required
to exercise option to come over to this workshop so as to have

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the services of experienced employees. In pursuance of the same, the first applicant herein who was working as Khalasi unskilled in Guntakal Division exercised option in time to ^{come} ~~cover~~ over to this carriage repair workshop and he joined there on 5/10-3-1986. The second and third applicants who are working as Khalasies in Guntakal and Hubli Divisions respectively had come on request transfer to this workshop and they were given bottom seniority on 24-11-1986 and 18-4-1987 the dates on which they respectively joined this workshop. The first and the second applicants were promoted as Khalasi helpers (Semi-skilled) on 6-6-1987 while the third applicant was promoted to the said post on 29-3-1988. The promotion to Grade III skilled is from Khalasi Helpers. While 25% of the vacancies in Grade III have to be filled up by direct recruits, 50% had to be filled up by promotees on the basis of their seniority on passing the Trade test and on working for minimum period of three years in the category of Khalasi helper, and the remaining 25% have to be filled up from out of the Khalasies and Khalasi helpers on the basis of Limited Departmental Competitive Examination (LDCE).

3. Eight posts in Skilled Grade III in the Power Maintenance in Electrical Department of this Repair workshop in which the applicants are working were sanctioned as per orders dt. 2-3-1987 and 11-5-1988. At the same time eight posts in Grade I and nine posts in Grade II were sanctioned for this Power Maintenance Section.

4. It is stated for the respondents that as only one promotee ~~who~~ had completed the requisite period of three years service in the Category of Khalasi helper, he was promoted to the post of Grade III and ~~the~~ 31 direct recruits

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were appointed to the Grade III. It is further stated for the respondents that after some more posts were sanctioned in the unskilled Grade I, Grade II, and Grade III for this Power Maintenance Section, Trade test was conducted and after the applicants passed in the said Trade test, the first and the second applicants were promoted to Grade III categories on 18-4-1992 and the third applicant was promoted on 16-7-1992.

5. The applicants engaged an advocate at the first instance and then this OA was heard in part. Later on they revoked the Vakalat in favour of their advocate and all the three argued in person. Their contentions are as under :

For reckoning three years of service for being eligible for consideration for promotion to Skilled Grade III, the entire service in the Department had to be taken into consideration and it is not just and proper to consider only the period of service in the category of Khalasi helper for the said purpose. Even the respondents promoted, Sri T. Mohan Babu and Sri T. Sudersan, the unskilled employees directly to skilled category as per the proceedings dated 3-9-1992 referred to in para-3 of the reply filed by the second applicant. Hence, they claim that they have to be promoted from the dates on which the posts in skilled Grade III were sanctioned in the 50% quota for the promotees.

6. It was categorically stated in the counter that three years minimum service in the category of Khalasi helper is required for eligibility for promotion from out of 50% quota to skilled Grade III. The applicants had not produced any rule to the effect that even the service in Khalasi had to be taken into consideration for reckoning service of three years. When the learned counsel for the respondents expressed

378

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that the rules are not readily available and he requires ten days time to get the rules from Tirupathi, it was submitted for the applicant that instead of further adjourning the matter, the same can be considered on the basis of the plea in the counter that minimum period of three years service in the category of Khalasi helper is required. Then it is clear that the applicants ^{are} ~~were~~ not eligible for promotion by the dates the posts in skilled grade ^{was} ~~was~~ sanctioned for this Power Maintenance Section, as rightly urged for the respondents.

7. The respondents were under the erroneous ^{impression} ~~information~~ that there were no vacancies by the dates the applicants were eligible for promotion as those posts were filled up by direct recruits. Unless the relevant recruitment rule is relaxed by the Railway Board, the direct recruits ^{appointed} ~~recruited~~ in excess of their quota cannot claim absorption in those posts till their turn comes. The applicants who are promotees should not suffer when there was delay in conducting the Trade test due to the erroneous impression that no vacancies for promotees were available. As these applicants passed the Trade test in the first attempt, it is just and proper to give them promotion from the dates on which they were eligible for promotion as the vacancies for promotees were available, for by then ^{only} one promotee was promoted to the post of Skilled Grade III. As the applicants completed three years period of service in the category of Khalasi helper on 6-6-1990 and 29-3-1991 respectively, their promotions should be given with retrospective effect from those dates and they are also entitled to the monetary benefits and consequent seniority.

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8. It is needless to say that in fixing seniority as between the direct recruits and promotees, the principle of direct recruits appointed in excess of the quota have to give way to the promotees who were later appointed in their quota, applies. Of course the same ^{principle holds good even} ~~thing happened here, for~~ ^{when} the promotees are appointed in the promotion category in excess of their quota ^{but} ~~and~~ that does not arise for consideration in this OA.

9. In the result, the promotions of the applicants have to be given with retrospective effect from 6-6-1990 and 29-3-1991 respectively and they are entitled to the monetary benefits and also their respective seniority in accordance with the rules.

10. The OA is ordered accordingly. No costs.

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

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

Dated : June 23, 1993
Dictated in the Open Court

[Signature]
Deputy Registrar

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To

1. The General Manager, S.C.Railway, Union of India, Railnilayam, Secunderabad.
2. The Deputy Chief Mechanical Engineer, Carriage Repair Shops, S.C.Rly, Tirupathi, Chittoor Dist.
3. The Workshop Personnel Officer, Carriage Repair Shops, S.C.Rly, Tirupathi, Chittoor Dist.
4. One copy to Mr.T.Munirathnam, Party-in-person, Kotta Kandriga, Merlapadu post, Yerpedu mandalam, Chittoor Dist.
5. One copy to Mr.S.Tilak Kumar, Baby, Qr.No.103/H CRS Qrs. Settipalli post, Tirupathi-506, Chittoor Dist.
6. One copy to Mr S.Badruddin Basha, Qr.No. 90/E, CRS Qrs North Colony, Settipalli post, Tirupathi -506, Chittoor Dist.
7. One copy to Mr.D.Gopal Rao, SC for Rlys.CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

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COMPARED BY

CHECKED BY

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. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

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

DATED: 23 - 6 - 1993.

ORDER/JUDGMENT

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

in

O.A.No.

859/91

T.A.No.

(W.P.No

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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