

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.950/91.

Date of Judgement 20.11.91.

M.Sreenivasulu

.. Applicant

Vs.

1. The Chief Personnel Officer,
Rail Nilayam, S.C.Rly.,
Secunderabad.
2. The General Manager,
S.C.Rly., Secunderabad. ... Respondents

Counsel for the Applicant : Shri M.Sreenivasulu,
Party-in-person.

Counsel for the Respondents : Shri N.V.Ramana, SC for Railways

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

[Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

This O.A. is filed praying for inclusion of the applicant's name in the panel for appointment to the post of Chief Traffic Controller in lieu of Shri P.Shankaran, whose name was included in the panel but is not available for posting on account of his retirement.

2. Applications were called for filling up the post of Chief Traffic Controller. Among the 53 persons alerted the applicant was one. He appeared for the written and viva-voce tests held. Thereafter, a panel was prepared and published on 18.8.89 containing 16 names (13 OC, 2 SC & 1 ST). The applicant's name was not there. It is the contention of the applicant that when the panel was prepared in August, 1989 one Shri P.Shankaran having retired on 30.6.89 itself was not available *and therefore*

his name should be substituted for Shri P.Shankaran as he is the seniormost candidate, outside the list.

To

1. The Chief Personnel Officer, Railnialaym, S.C.Rly, Secunderabad.
2. The General Manager, S.C.Rly., Secunderabad.
3. One copy to Mr. M. Sreenivasulu, Party-in-person, 1305/2, Railnilayam Colony, Secunderabad
4. One copy to Mr. N. V. Ramana, SC for Rlys, CAT, Hyd.
5. One spare copy.

pym.

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3. The respondents have filed a counter opposing the application. It is contended that there is no provision in the rules to replace any name in the panel with that of the seniormost who is outside the panel. A panel is prepared according to the rules and inclusion in it can only be in accordance with the rules.

4. The applicant has filed a rejoinder which is more or less a repetition of what is stated in the O.A.

5. We have examined the case. A person gets a right only when his name is included in the approved panel corresponding to the number of vacancies declared. The sole claim of the applicant is that by virtue of his seniority his name should be included in the place of Shri P. Shankaran who has retired even before the preparation of the panel. It is not that Shri P. Shankaran has lost all his rights because he retired even before the panel was approved. Eventually, from out of the panel if a person junior to Shri P. Shankaran is promoted with effect from a date prior to his date of retirement i.e., 30.6.89, Shri P. Shankaran acquires certain rights. Moreover, the preparation of the panel is in accordance with certain rules and when the applicant's name was not included in it in the first instance it cannot be included ~~unless~~ ^{except} in accordance with the stipulated procedure.

Mere seniority does not entitle him to find a place in the panel.

6. The cause of action arose in August, 1989. The applicant represented in September, 1989. But he did not seek legal redressal till the receipt of the letter dt. 23.9.91 rejecting his claim. The applicant's case is hit by limitation also because the cause of action arose in August, 1989 and he chose to file the application only in October, 1991. For the reasons stated above, the application is dismissed with no order as to costs.

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R.Balasubramanian
(R.Balasubramanian)
Member(A).

Dated: 26th November, 1992.

T.Chandrasekhara Reddy
(T.Chandrasekhara Reddy)
Member(J).

Dated: 26th November, 1992.

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TYPED BY

2 COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

AND

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

AND

THE HON'BLE MR.C.J.ROY : MEMBER(JUDL)

Dated: 20 - 11 - 1992

ORDER/JUDGMENT:

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

in

O.A. No. 950/91

T.A. No. (wp. No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

27th Dec 1992

pvm

No orders as to costs.

