

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA 829/91, OA 1133/91, OA 83/92,
OA 90/92, OA 93/92, OA 370/92,
OA 371/92, CA 973/93, OA 977/93 &
OA 1192/93.

Dt. of Order:1-11-93.

OA 829/91.

1. TLN Prasad
2. BL Krihna Murthy
3. M. Sivanandam
4. M. Krishna Rao
5. K. Guravaiah
6. A. Prakasa Rao
7. Shaik Mahaboob

....Applicants

Vs.

1. Chief Mechanical Engineer, SC Rlys,
Sec'bad.
2. Dy. Chief Mechanical Engineer, Wagon Workshop,
SC Rlys, Wagon Work Shop, Guntupally, Krishna Dt.
3. Workshop Personal Officer, Wagon Workshop,
SC Rlys, Krishna Dt.

....Respondents

OA 1133/91.

- | | |
|---------------------------|----------------------------|
| 1. G. Balakrishna Murthy | 18. G. Yesu Dass |
| 2. K. Venkateswara Rao | 19. J. Veera Raju |
| 3. S. Radhakrishna Murthy | 20. P. L. Narayana |
| 4. T. Krishna Reddy | 21. I. Rama Mohana Rao |
| 5. M. Venkateswara Rao | 22. Sk. Abdul Sammad |
| 6. V. Nancheraiah | 23. V. Rajendran |
| 7. V. K. Ali | 24. P. Vijay Kumar |
| 8. N. Mahammed Kutty | 25. K. John Victor Paul |
| 9. M. Arjuna Rao | 26. K. Satyanarayana |
| 10. G. Appa Rao | 27. P. Alivi |
| 11. G. Peraiah | 28. K. P. Gangadharan Nair |
| 12. P. K. Velayudan | 29. P. M. Gopalan |
| 13. P. K. Appa Kuttan | 30. E. Kesavan Nair |
| 14. Sd. Asham | 31. P. Chandrasekaran |
| 15. M. Hari Prasad | 32. T. James Williams |
| 16. E. Bangarappadu | 33. C. Balaiah |
| 17. V. Gopaiah | 34. B. Yellamandeswara Rao |

34

- 2 -

35.S.Kondaiah
36.K.Ramesh Babu
37.A.Rama Rao
38.G.Narasimha Rao
39.B.Nagabushanam
40.T.Subramanyam
41.S.Suryanarayana
42.Sk.Pakeera
43.N.Venkateswarlu
44.V.K.Sashidharan
45.G.Lakshmaiah
46.B.Narayana Singh
47.D.Kondaiah

48.y.sundaraiah
49.G.Subba Rao
50.T.Naga Subramanyam
51.V.Radha Krishnaiah
52.K.Sankaran
53.M.Kannaiah
54.J.Daniel
55.Md.Ibrahim
56.G.Garata Rao
57.P.Ramanaiah

....Applicants

Vs.

1. The Divisional Railway Manager (Personnel),
SC Rlys, Vijayawada.
2. The Divisional Engineer (Special Works),
SC Rlys, Vijayawada.
3. The Chief Bridge Inspector, SC Rlys, Vijayawada.
4. The Chief Bridge Inspector, SC Rlys, Bitragunta.

....Respondents

DA 83/92.

1.B.Balasubrahmanyam
2. N.Meerajan
3. B.Chenchugadu
4. K.Satyanarayana
5. M.Subba Rao
6. M.Hussain
7. B.Venkateswarlu
8.V.Sundara Rao
9.S.Venkateswara Rao
10.O.Gangaiah
11.M.Ibrahim
12.R.Audinarayana
13.M.Soloman

14.P.G.Satyam
15.V.Bapa Rao
16.N.Sunderaraman
17.A.Loganathan
18.T.Narayudu
19.K.Krupa Rao
20.G.Venkateswara Rao
21.D.Suryanarayana
22.K.Pitchaiah
23.T.Ramulu
24.M.M.Ayyappan
25.C.Adbul Kutti
26.M.S.Louther

.....Applicants

Vs.

1. The Divisional Rlys Manager, (P),
SC Rlys, Vijayawada,
2. The Divisional Engineer (Spl.Works),
SC Rlys, Vijayawada.
3. The Asst.Engineer, (General), SC Rlys, Vijayawada,
4. The Chief Bridge Inspector, SC Rlys, Vijayawada.

.....Respondents

....3.

DA 90/92.

1. Venkataiah
2. M.Jangaiah
3. M.Venkataswamy
4. Sankar
5. Durgaiah
6. Krishna Kumar
7. Prabhakar

....Applicants

Vs.

1. Sr.Divisional Personnel Officer,
Hyd Division (MG), SC Rlys, Sec'bad.
2. Divisional Engineer (Central),
Hyd Division (MG), SC Rlys, Sec'bad.
3. Asst.Engineer, Water Works, Hyd Division (MG),
SC Rlys, Sec'bad.
4. Inspector of Works, IDW Water Works, ^{South}
Lalaguda, Hyd Division (MG), SC Rlys, Sec'bad.

....Respondents

DA 93/92.

1. R.Lingaiah
2. S.Anjaiah
3. B.Narsinga Rao
4. U.Ramulu

....Applicants

Vs.

1. Sr.Divisional Personnel Officer,
Hyd Division (MG), SC Rlys, Sec'bad.
2. Divisional Engineer (Central), Hyd
Division, (MG), SC Rlys, Sec'bad.
3. Asst.Engineer, Water Works, Hyd Division (MG),
SC Rlys, Sec'bad.
4. Inspector of Works, IDW Water Works,
South Lalaguda, Hyd Division (MG),
SC Rlys, Sec'bad.

.....Respondents

DA 370/92.

1. Narasimha
2. Narasaiah
3. Anthaiah
4. Anjaiah
5. Narasaiah
6. Pullaiah
7. Mallaiah
8. Smt.Bhushanamma
9. Komaraiah
10. Chandraiah
11. Yadagiri

12. Venkatnarsu
13. Sk. Jeelani
14. Pochaiah
15. M. Pochaiah
16. S. Sailoo
17. P. John
18. Mallaiah
19. K. Narsing Rao
20. C. Mallaiah
21. Ramaswamy
22. P. Narsimha

.....4.

302/92

23. Balaiah
24. Laxmaiah
25. Ayoday
26. Narsimha
27. Channaiah
28. Mallaiah
29. K. Rajaiah
30. Shranappa
31. R. Pentaiah
32. Kistaiah
33. C. Malleash
34. B. R. Narsimha
35. K. Laxman
36. Krishna
37. Akaiah
38. S. Ramulu
39. L. Yadagiri
40. D. Malleash
41. Pochaiah
42. Ramulu
43. Smt. Sangeethamma
44. B. Balakrishna
45. Bikshapathi
46. Mallaiah
47. C. Yadagiri
48. Yadagiri
49. Buchi Reddy
50. Smt. Narsamma
51. Smt. Kanthamma
52. Laxmaiah
53. Sambaiah
54. S. Rajaiah
55. Mallaiah
56. Yadaiah
57. Narsimha
58. K. Narsinga Rao
59. S. Somaraju
60. K. Raja Reddy
61. Smt. Mallamma
62. Anjaiah
63. Ellaiah
64. P. Narsimha
65. Manik
66. Semmaiah
67. Rajaiah
68. Chithaiah
69. Pocheiah
70. Laxmaiah
71. T. Anjaiah
72. P. Sreeramulu
73. Sk. Hyder
74. A. Muniswamy
75. Smt. Yedamma
76. Malleash
77. Smt. Laxmibai
78. Smt. Rajamani
79. Sailu
80. Srinivas
81. K. Eshwar
82. Sadath Khan
83. Raghavulu
84. Venkateswamy
85. A. Venkata Raju
86. Kanakaiah
87. D. Sailu
88. Ramulu
89. B. Yadagiri
90. Jangaiah
91. M. Abdul Sathar
92. C. Rama Swamy
93. Awad
94. S. Rajaiah
95. B. Nagaraju
96. V. Bikshapathi
97. B. Gunda Reddy
98. G. Sathyanarayana
99. Yadagiri
100. Jaya Rao
101. K. Malleash
102. Shaik Madar
103. K. B. Balraj
104. K. Sathi Reddy
105. Venkatesh

24/10/91

Versus

1. Chief Personnel Officer,
SC Rlys, Rail Nilayam, Sec'bad.
2. Divisional Rlys Manager (P),
MG Division, Sec'bad.
3. Divisional Engineer, MG Division,
Sec'bad.
4. Asst. Engineer (Water Works),
MG Division, Sec'bad.
5. I.O.W. (Garden), Hyderabad,
(Inspector of Works), MG Division,
Sec'bad.

.....Respondents

-- -- -- -- --

DA 371/92.

- | | |
|-----------------------|----------------------|
| 1. Narsimha | 18. Narasimha |
| 2. R. Dorai Swamy | 19. Eswar |
| 3. Iylaiah | 20. B. Chandrasekhar |
| 4. Malllesh | 21. Komaraiah |
| 5. Somaiah | 22. M. Sambaiah |
| 6. Ramaswamy | 23. Narsimloo |
| 7. K. Moses | 24. M. Chandran |
| 8. Yadagiri | 25. T. Kumaraswamy |
| 9. Bikshapathy | |
| 10. E. Satyanarayana | |
| 11. B. Sarveswara Rao | |
| 12. Anna Rao | |
| 13. M. Narasimha | |
| 14. Sunder | |
| 15. Malllesh | |
| 16. Mysaiah | |
| 17. Mohd. Kamruddin | |

.....Applicants

Versus

1. The Divisional Railway Manager (P),
SC Rlys, Hyderabad MG Division, Sec'bad.
2. The Asst. Engineer (Buildings),
SC Rlys (MG), Sec'bad.
3. The Asst. Store Keeper, Hyderabad (MG)
Division, SC Rlys, Near Rai Nilayam, Sec'bad.
4. The General Manager, South Central Rlys,
Rail Nilayam, Sec'bad.
(R-4 is implemented as per court order
dt. 17-8-93)

.....Respondents

stg

OA 973/93.

1. P.C.Ramanaiah
2. N.Sreenivasulu

.....Applicants

Versus

1. The General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. Divisional Railway Manager,
SC Rlys, Vijayawada.
3. Sr.Divisional Personnel Officer,
SC Rlys, Vijayawada.

.....Respondents

-- -- -- -- --

OA 977/93.

1. V.Devaiiah
2. Johan Prakash
3. K.Rambabu
4. Sk.Subhani
5. B. Balajee Singh
6. Mohd.Ismail
7. Mohd.Sk.Babjee
8. E.Appa Rao
9. P.Shyama Sunder Rao

....Applicants

Versus

1. The Chief Personnel Officer,
SC Rlys, Rail Nilayam, Sec'bad.
2. Divisional Railway Manager (P),
SC Rlys, Vijayawada.
3. Sr.Divisional Personnel Officer,
SC Rlys, Vijayawada.

....Respondents

-- -- -- -- --

OA 1192/92.

- | | |
|--------------------|---------------------|
| 1. Komaraiah | 9. Satyanarayana |
| 2. B.Ramaswamy | 10.Narasimha Chari |
| 3. B.Satyanarayana | 11.B.C.Bikshapathy |
| 4. M.Yadagiri | 12.B.Murali |
| 5. G.Bikshapathi | 13.G.Krishna |
| 6. Somraj | 14.N.S.R.Anjaneyulu |
| 7. Vidyanath | 15.R.Shankar |
| 8. Mallesh, | 16.E.Shankara rao |

.....7.

6/10/93



- 7 -

- | | |
|--------------------------|----------------------------|
| 17.Eswaraiah | 38.G.L.Yadagiri |
| 18.V.Veeraiah | 39.Mutyalo |
| 19.M.Bhikshapathy | 40.B.Bhikshapathi |
| 20.Kantaiah | 41.Narahari |
| 21.K.N.Satyanarayana | 42.R.Prabhakar |
| 22.Smt.Vijayalakshmi | 43.K.Pochaiah |
| 23.Ramulu s/o Hallaiah | 44.D.Satyanarayana |
| 24.Chandraiah | 45.Krishna S/o Ramulu |
| 25.V.Satyanarayana | 46.Bikshapathi s/o Ramaiah |
| 26.Ramulu S/o Chandraiah | 47.Ramulu S/o Narasimha |
| 27.D.Ramachander | 48.V.Satyanarayana Murthy |
| 28.B.Chandraiah | 49.Buchi Reddy |
| 29.G.Satyanarayana | 50.Chandraiah |
| 30.Devender | 51.Ram Shankar |
| 31.Eraiah | 52.V.Narasimha Rao |
| 32.Y.Chandrasekhar | 53.S.Mallaiah |
| 33.Narsing | 54.G.Anji Reddy |
| 34.D.Arjun | 55.R.Ganga Rao |
| 35.G.Narsaiah | |
| 36.S.Anand Prasad | |
| 37.N.Raghava Reddy | |

.....Applicants

Vs.

1. General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. Divisional Railway Manager (P),
SC Rlys, Sec'bad Division, Sec'bad.
3. Divisional Engineer, SC Rlys,
Sec'bad Division, Sec'bad.
4. Asst.Engineer (Water Works),
Sec'bad Division, SC Rlys, Sec'bad.

.....Respondents

-- -- -- -- --

Thang
J.

.....8.

Ro

- 8 -

Counsel for the Applicants : Shri P. Shridhar Reddy in
(OA 1133/91)
Shri V. Sudhakar Reddy
(in OA OA 977/93)
Shri P. Krishna Reddy
(in all other cases)

Counsel for the Respondents : Shri J. R. Gopal Rao, SC for Riys
(in OA 973/93)
Shri N. R. Devraj, SC for Riys
(in all other cases)

-- -- -- --

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN)

stuf
7

-- -- -- --

.....9.

AEO

OA.829/91; OA.1133/91
OA.83/92; OA.90/92; OA.93/92; OA.370/92; OA.371/92
OA.973/93; OA.977/93; and OA.1192/93

Judgement

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

Heard Sri P. Krishna Reddy, and Sri V. Sudhakara Reddy, learned counsels for the applicants and Sri N.R. Devaraj, and J.R. Gopal Rao, learned counsels for the respondents.

2. As the points which arise for consideration in all these OAs are same, they can be conveniently disposed of by a common order.

3. The applicants in all these OAs were engaged as Casual labours in Group-D service in various seniority units of South Central Railway.

4. Para 2511(a) (1990 Edition) (para 2005 of old edition) of Indian Railway Establishment Manual (IREM) had been amended by order of the Railway Board dated 7-5-1983 and after amendment it reads as under :

"Casual labour treated as temporary are entitled to all the rights and benefits admissible to temporary railway servants as laid down in Chap. XXIII of the IREM the rights and privileges admissible to such labour also include the benefits of Disciplinary and Appeal Rules. However, their service prior to absorption in temporary / permanent regular cadre after the required selection / screening will not count for purpose of seniority and the date of their regular appointment after screening /selection shall determine their seniority vis-a-vis other regular employees. This is, however, subject to the proviso that if seniority of certain individual employees has

AEO

102

10

already been ~~determined~~ in any other manner either in pursuance of judicial decision or otherwise the seniority so determined shall not be altered. Casual labour shall be eligible to count only half the period of service rendered by them after attaining temporary status on completion of 120 days continuous employment and before regular absorption as qualifying service for the purpose of pensionary benefits. Such casual labour who had attained temporary status will also be allowed to carry forward the leave at their credit to the new post on absorption in regular service. Daily rated casual labour or labour employed on projects will not be entitled to these benefits."

5. The said provision prior to the above amendment laid down that " Casual labour treated as temporary are entitled to all the rights and privileges admissible to temporary Railway servants as laid down in Chapter.XXIII in IREM..... their service prior to the date of completion of six months continuous service will not, however, count for any purpose like retirement benefits, seniority, etc.....".

✓ 6. Thus, it is manifest that prior to the amendment, the service from the date of conferment of temporary status was reckoned for the purpose of seniority, while ^{as per} ~~from~~ the ~~date of~~ amendment the service from the date of regularisation ^{alone has to be} ~~was~~ reckoned for the purpose of seniority.

7. The question is as to whether the amendment as per Railway Board order dated 7-5-1983 is prospective or

10/10

(A3)

retrospective had arisen for consideration in Writ Petition No. 4058/82 on the file of AP High Court. The said writ petition was disposed on 20-10-1984 by holding that the said amendment was prospective. *In pursuance of the* said judgement, this Bench of CAT ^{*disposed*} ~~held in~~ TA.565/86 and someother TAs and OAs by giving directions in accordance with the directions in the judgement dated 20-10-1984 in W.P.4058/82.

8. But the Supreme Court held in 1993(1) SLR 550 (Smt. V. Kameshwari versus Union of India and others) that the amendment as per Railway Board ~~order~~ dated 7-5-1983 ~~held~~ that "Under the amended provision of Para.2511(a) of 1990 edition ^{*corresponding to*} ~~and~~ (2005 of ~~old~~ edition) the seniority of casual labour ~~treated as temporary~~ who are subsequently absorbed in temporary / permanent cadre has to be reckoned on the basis of the date of their regular appointment after screening / selection and the service prior to absorption in temporary / regular cadre after the required selection / screening would not count for the purpose of seniority. The only exception that has been made is in respect of the employees whose seniority had already been determined ~~in any other amendment~~ either by any judicial decision or otherwise and it is provided that the seniority was determined shall not be altered."

9. Thus, ^{*the question*} ~~in considering~~ as to whether seniority had to be reckoned from the date of conferment of temporary status or from the date of regularisation, in regard to those who are initially engaged as casual labour, depends upon the ^{*fact*} ~~question~~ as to whether the seniority list in regard to the concerned seniority unit was finally published

u/t/g



or whether judicial decision was given in regard to the same.

10. The next question that naturally arises is as to whether the ~~said finalisation~~ of judicial decision ^{is a decision} ~~should~~ ^{that was given} by 7-5-1983 or by 12-1-1993, the date of the judgement of the Supreme Court in 1993 (1) SLR 550. The various judgements given by the AP High Court and this Tribunal which were delivered subsequent to 7-5-1983 and before 12-1-1993 had become final. It is stated for the respondents that in pursuance of these judgements and orders, the concerned authorities revised the seniority lists in compliance with those judgements and orders ^{the applicants thereafter} ~~in regard to~~. The general principle is that settled matters cannot be unsettled unless there are compelling reasons. Hence, we feel that in the circumstances, when the Supreme Court observed that the amendment dated 7-5-1983 is not applicable in regard to the employees whose seniority had already been determined ~~either~~ ^{has} by judicial decision, It ~~had~~ ^{has} to be said that the said amendment is not applicable in regard to the seniority lists which were finalised by ~~any~~ ^{given} judicial decisions by 12-1-1993, the date of judgement of Supreme Court in the case reported in 1993 (1) SLR 550. ~~It~~ ^{It} is going to be held that the seniority lists which were revised subsequent to 7-5-1983 and before 12-1-1993 also have to be revised in accordance with the amendment dated 7-5-1983, it will amount to setting aside the judicial decisions given by the Supreme Court and this Tribunal which had already become final. We feel that the same is not contemplated by the Supreme Court.

11. It is contended for the applicants that if revision in seniority is effected only in regard to the applicants



Feb

in the various proceedings before the High Court and also proceedings in this Tribunal, it will be inequitable for the seniors to ~~these~~ ^{those} applicants will become their juniors. There is force in the said contention. Hence, in regard to the various seniority units in which the seniority of the applicants in the proceedings in WPs and the earlier proceedings in this Tribunal were altered only in regard to those applicants, the said revision had to be made in regard to all the employees who were similarly situated to the applicants therein.

12. In view of our above discussion, the following orders have to be given in regard to seniority:

- 1) The seniority lists which were revised in regard to the applicants in various Writ Petitions / TAS / OAs have to be revised in regard to the employees who are similarly situated to ~~these~~ ^{units} applicants in those seniority ~~lists~~ ^{units} so as to reckon their service for the purpose of seniority from the date on which the temporary status was ~~confirmed~~ ^{obtained}.
- 2) In view of the judgement of the Supreme Court in 1993 (1) SLR 554, the other seniority lists which ~~were~~ ^{had} already become final need not be revised and the seniority ^{in regard to the rest} lists have to be prepared by taking into consideration the length of service from the date of regularisation in regard to those who were initially engaged as casual labours.

13. The other relief which is claimed in these OAs is that for the purpose of pension and retiral benefits, the total service from the date of attainment of temporary status till the date of regularisation also had to be taken into consideration and the amendment dated 7-5-1983 whereby it is stated that only half of the service had to be taken into consideration had to be held as un-Constitutional. The

13th Feb

126

question of grant of pension, ^{the} period that has to be ^{reckoned} taken for pension, ^{the period in regard to} probation, average salary drawn, salary that had to be taken into consideration are of matters for Administration, as it is one of policy. Supreme Court held in AIR 1988 SC 390 (Ram Kumar and other Vs. Union of India and others) that "no pensionary benefits are admissible even to temporary railway servants and therefore, that retiral advantage is not available to casual labour acquiring temporary status."..... We agree with the learned Additional Solicitor General that retiral benefits of pension is not admissible to either category of employees". Hence, the contention for the applicants ^{that} that portion of the amendment dated 7-5-1983 where it was stated that only half of the service from the date of attainment of temporary status till the date of regularisation instead of taking that entire service is un-Constitutional had to be repelled.

14. In the result these OAs are dismissed. ⁱⁿ In regard to the relief that the entire service from the date of attainment of temporary status till the date of regularisation in regard to such of those employees who were initially engaged as casual labour ~~are dismissed~~.

15. The above OAs are ordered as under in regard to the relief about the date from which service had to be reckoned for the purpose of seniority :

a) The seniority lists which were revised in regard to the applicants in various Writ Petitions / TAs / OAs have to be revised in regard to the employees who are similarly situated to these applicants in those seniority ^{with} ~~lists~~ so as to reckon their service for the purpose of seniority from the date on which the temporary status was confirmed.

with

