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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.934/92.

Date of Judgement 25-2-93

B.Suryanarayana

.. Applicant

Vs.

1. The Sr. Divl. Comml.
Supdt., S.C.Railway,
Vijaywada.

2. Divl. Rly. Manager
(Personnel), S.C.Railway,
Vijaywada.

.. Respondents

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri Rajeswara Rao for
Shri N.V.Ramana, SC for Rlys.

CORAM:

Hon'ble Shri Justice V.Neeladri Rao : Vice-Chairman

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

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

This application is filed by Shri B.Suryanarayana against the Sr. Divl. Comml. Supdt., S.C.Railway, Vijaywada & another under section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to continue the applicant as Retiring Room Clerk (RRC for short) or as a Clerk in the Office of the Sr. Divl. Comml. Supdt., which is a post of equal rank and grade, to which he was earlier transferred.

2. The applicant joined the Railways as Loco-Khalasi in June, 1960. In 1981 he fell sick and was medically decategorised being declared fit only in C1 and below category for a job not involving any work in engine, diesel oil or exposure to sunshine. He was posted as RRC in the scale of Rs.260-400. In the course of his service as RRC he was asked to attend the promotional course to qualify for absorption as Commercial Clerk in the higher scale of Rs.260-430 vide the Sr.DPO/BZA letter dt. 22.10.83. The applicant declined and requested that

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he be continued in the post of RRC on medical grounds or in the alternative to absorb him as an Office Clerk. The Chief Personnel Officer, Secunderabad complied with this request and vide his letter dt. 31.3.84 even went to the extent of assuring that the applicant and 2 others would be allowed to continue in the same post keeping the designation of RRC so long as they were in service. While so, he was transferred as a Seal Check Clerk (SCC for short) in April, 1987. Aggrieved, the applicant approached this Tribunal with O.A.No.412/87. The Bench decided the case on 9.7.87 and directed the respondents that the applicant should be provided with any job other than that of SCC within the limitations imposed by the medical authorities. After this, he was posted as a Junior Clerk in the Office of the Sr. Divl. Comml. Supdt., in the same grade. However, again in December, 1989 he was transferred back to the post of RRC under the control of Station Superintendent, Vijaywada. In the meantime, certain disciplinary proceedings were initiated against him and all of a sudden vide orders dt. 16.7.92 he was relieved from the post of RRC and posted as F.S. Office Clerk under the control of Station Superintendent(G) Vijaywada. It is contended that the post of F.S. Office Clerk is equivalent to Commercial Clerk in a higher grade for which the applicant is neither qualified nor trained. Aggrieved, he has approached this Tribunal with this O.A.

3. The respondents have filed a counter affidavit and oppose the application. It is stated that while the applicant was working as RRC he indulged in certain irregularities and to maintain the image of the Railways it became necessary to shift him from the post of RRC. Although he was brought back to the same post after sometime in December, 1989 his performance as RRC was still not satisfactory. It, therefore, became necessary to post him as F.S. Clerk and it is contended that this is not in conflict with the requirements indicated in the medical certificate.

To

1. The Senior Divisional Commercial Superintendent,
S.C.Railway, Vijayawada.
2. The Divisional Railway Manager, (Personnel)
S.C.Railway, Vijayawada.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
5. One spare copy.

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4. The correctness or otherwise of the respondents in posting the applicant as F.S. Clerk is to be seen. There are three factors to be taken into consideration.

- (a) The Chief Personnel Officer's assurance that the applicant would be posted as RRC only so long as he was in service.
- (b) The medical requirements imposed by the medical authorities.
- (c) The difference in grade between RRC and F.S.Clerk.

5. As regards the Chief Personnel Officer's assurance, it is not necessary for deciding this case to go into the tenability or otherwise of such a wide assurance.

As regards the medical requirements, the respondents contend that they are still adhering to them in-as-much as the duties of the F.S.Clerk would be within the medical requirements.

What is now assuming importance is the third factor. The F.S.Clerk is stated to be in a higher grade and the respondents have not denied this. It will be improper for the respondents to extract services from the applicant in a higher grade. ^{On} ~~Under~~ this ground alone the relief sought for is to be granted. We, therefore, direct the respondents to post him back as RRC or to utilise his services in the same grade as RRC consistent with the medical requirements like the ^{office} ~~F.S.~~ Clerk ~~post~~ where his services were utilised earlier. We hasten to add that the respondents have full liberty to initiate/proceed with the D&A proceedings in case the performance of the applicant is adverse in whatever capacity he works.

6. The application is disposed of thus with no order as to costs.

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

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

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Dated: 25th February, 1993.

8/3/93
Deputy Registrar (J)

TYPED BY

COMPALED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY
: MEMBER (J)

AND

THE HON'BLE MR.

DATED: 25-2-1993

ORDER/JUDGMENT:

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

in

A.A.No. 934/92

T.A.No.

(W.P.No.

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.

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