

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 1102/92.

DATE OF JUDGMENT: 13.7.94.

BETWEEN:

Mr. Pochaiiah

.. Applicant.

AND

1. Divisional Railway Manager (MG) Hyderabad,
SC Rly, Secunderabad.

2. Sr. Divisional Personal Officer (MG)
Hyderabad, SC Rly, Secunderabad.

3. P. Lakshmanarao, Paddalu, son of Paddalu,
working as II Fireman (Ticket No. 3702)
office of the Loco Foreman, SC Rly,
Moulali, Secunderabad. .. Respondents.

APPEARANCE:

COUNSEL FOR THE APPLICANT(s): Mr. S. Lakshma Reddy

COUNSEL FOR THE RESPONDENTS: Mr. J.R. Gopala Rao,
SC for Rlys.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

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expired in 1985, a fresh screening should have been conducted calling him also for the screening and a fresh list should have been prepared and from that list only, the respondents should have posted the Engine Cleaners. As this was not done and the expired screening list of 1983 was kept alive irregularly even after the expiry period in 1985, he had lost his chance to come over to the running side as Engine Cleaners and above and his juniors were given promotion on the running side ignoring his seniority.

5. We have heard Sri S.Lakshma Reddy,, learned counsel for the applicant and Sri J.R.Gopala Rao, learned Standing Counsel for Railways.

6. The respondents had categorically stated in their reply that they have followed the provisions of para-320 of IREM scrupulously. The 1983 panel was not kept alive or extended beyond the date of panel life. The applicant was not empanelled in the year 1983. Hence, he could not be brought on the running side as Engine Cleaner which is the feeder category for the post of Second Firemen and above. The above averments were not controverted by the applicant by filing a rejoinder. Hence, we have to go by the submission of the respondents that the panel was alive only upto '85 and those who were empanelled in that list were taken as Engine Cleaners only upto the due date. It is a fact that no fresh panel was formed after the expiry of the 1983 list as the cadre of Fireman had shrunk by then due to reduction in the Steam Locomotive holding. The respondents cannot be held responsible for not preparing a fresh list after screening for the post of Engine Cleaners after 1985 as any such empanelment will only lead to huge surpluses in the cadre of Fireman on the Steam Loco cadre as by then the strength of the Steam Locos have been reduced considerably. The allegation that his juniors in the revised seniority list were promoted as Fireman ignoring the seniority of the applicant in late eighties has been aptly replied by the respondents in their additional affidavit. It is stated in the additional affidavit that in pursuance of the orders in O.A.No.106/87 and R.A.No.49/87, the seniority list of

rejection of his claim by R-1 through the letter No.Y.P./671/ Screening/Engine Cleaner/HYB dt.13.4.1992 for promotion to Second Firemen and to higher grades on par with his juniors on the ground that he was not found suitable in the Screening Test conducted in the year 1983 by holding it is illegal, arbitrary and without jurisdiction and violative of Articles 14 & 16 of the Constitution and for a further direction to the respondents to promote him as Second Fireman and to higher grades on par with his juniors with all consequential benefits.

3. The respondents have filed their counter affidavit dt. 13.9.1993 and additional affidavit. The respondents submit that the last empanelment for Engine Cleaners was done only in the year 1983 and thereafter no empanelment was done due to shrinkage of category of Firemen. As regards the allegation by the applicant that his juniors were promoted even as far as back as 1989, the respondents submit that those juniors who were promoted were already empanelled in the 1983 list for the post of Engine Cleaners. The seniority list of the Engine Cleaners was revised in pursuance of the orders of this Tribunal in O.A. No.106/87 and R.A.No.49/87. Some of the juniors of the applicant in 1983 list had also to be promoted even in 1989 as some persons junior to them in the cadre of Yard Khalasis on the basis of the old seniority list were already promoted as Second Firemen. In view of this, the applicant cannot have any grievance. After the expiry of the list of 1983, no list has been prepared empanelling Yard Khalasis junior to the applicant. As the applicant failed to make the grade for empanelling him as Engine Cleaner at the time of screening in 1983 he cannot be considered for promotion in the running cadre of Firemen and above even though his juniors empanelled in 1983 list are promoted.

4. The main contention of the applicant is that the panel of 1983 had expired in the year 1985 as the life of the panel is only for 2 years. In spite of this his juniors in that expired list were promoted regularly even in late eighties. As the panel had

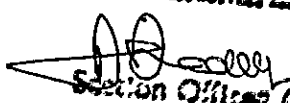


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To

1. The Divisional Railway Manager(MG) Hyderabad,
S.C.Rly, Secunderabad.
2. The Sr.Divisional Personal Officer(MG),
Hyderabad, S.C.Rly, Secunderabad.
3. One copy to Mr.S.Lakshma Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.J.R.Gopala Rao, SC for P'vs, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
- ✓ 6. One spare copy

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Date of Judgement	13-7-96
Copy made ready on	14-7-96
 Section Officer (I)	

Yard Khalasis was revised on 3.11.1988. In the said list the applicant was shown under Serial No.562 and some of his juniors were shown under Serial Nos.565, 567, 571 etc. Prior to the said revised seniority list, some persons who were junior to the Yard Khalasis under Serial Nos.565, 567, 571 etc. were promoted as second Fireman on the basis of the old seniority list. As a consequence of the revision of the old seniority list, the persons under the said serial nos. became entitled to be promoted as Second Fireman on proforma basis as their juniors were promoted as Second Fireman previously on the basis of the old seniority list. As the rectification of seniority due to administrative error was done as per Railway Board's letter No.E(NG)/63/PM/1/92 of 15/17.9.1964 (Annexure-VI) ^{the} proforma promotion of the said serial numbers were in order. There is force in the submission of the respondents. This submission is also not rebutted suitably by the applicant. Hence, it has to be held that none of his juniors whose names did not figure in the 1983 list were brought to the cadre of Engine Cleaners and thereafter promoted to higher grades as Second Fireman etc. on the running side. It has also to be held that the panel life of 1983 was also not extended or kept alive illegally to the detriment of the applicant.

7. As the 1983 panel had expired as per its panel life in 1985 and none of the juniors of the applicant whose name were not in the 1983 panel were promoted overlooking the claim of the applicant, the respondents reply dt. 13.4.1992 to the applicant is in order and there is no illegality or impropriety in the issue of that letter.

8. Under the above facts and circumstances of the case we see no merit in this OA and is liable to be dismissed. Accordingly we do so. No costs.

CERTIFIED TO BE TRUE COPY

[Signature]

Date.....

Court Officer

Central Administrative Tribunal

Hyderabad Bench

Hyderabad

14/7/94