

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.1135 of 1992

DATE OF JUDGMENT: 30th July, 1993

BETWEEN:

Mr. U.Koteswara Rao

..

Applicant

AND

1. The Chief Personnel Officer,
South Central Railway,
Secunderabad-500371.
2. The Chief Signal & Telecom Engineer,
Maintenance,
S.C.Railway,
Secunderabad.
3. The Divisional Railway Manager (Broad Gauge)
S.C.Railway,
Secunderabad-371.
4. The Senior Divisional Signal &
Telecom Engineer, (Construction I),
S.C.Railway,
Secunderabad.
5. Union of India, represented by
the General Manager,
S.C.Railway,
Secunderabad.

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Respondents

APPEARANCE:

COUNSEL FOR THE APPLICANT: Mr. P.Rattaiah, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, SC for Railways.

CORAM:

Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDICIAL)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 to quash the combined seniority list of Office Superintendents Grade-II, dated 7.9.1992 and also to direct the respondents to implement the decentralisation of the posts of OS Grade-I as per the undertaking given to the Trade Unions on 16.9.1991.

2. When the OA came up for hearing, the learned counsel for the applicant gave up the second prayer and the counsel for the applicant confined his arguments only to the first prayer.

3. The facts so far as necessary to adjudicate this OA in brief are as follows:-

The applicant had been promoted as OS Gr.II in the South Central Railway, Secunderabad on adhoc basis in the year 1986. His services were regularised in the post of OS Gr.II in the year 1990. It is the grievance of the applicant that due to the wrong policy of conducting the examination in different units on different dates and thereafter clubbing of the promotees into the combined seniority list for which selection for the next promotional post of OS Gr.I is being held, ^{in the applicant} ~~had~~ resulted in his being made ~~the~~ junior to several others. It is the case of the applicant that the vacancy in the post of OS ⁱⁿ in the Secunderabad Broad Gauge Unit arose in the year 1984 and that he should have been promoted in that vacancy in the year 1984 on regular basis. Alternatively, it is pleaded that at least he should have been promoted on regular basis with effect

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from 20.11.1986 on regular basis and his seniority should have been counted in the post of OS Gr.II from then onwards. As the services of the applicant had been regularised only with effect from the year 1991 and the seniority list was prepared on the basis of the regular appointment to the post of OS Gr.II, the applicant has filed this OA for the relief as already indicated above viz., to quash the combined seniority list dated 7.9.1992 of OS Gr.II.

4. Counter is filed by the respondents opposing this O.A.

5. We have heard today Mr.P.Rattaiah, learned counsel for the applicant and Mr.N.V.Ramana, learned standing counsel for the respondents. As already pointed out, it is the contention of the learned counsel appearing for the applicant as regular vacancy in the post of OS Gr.II was available in the year 1986 that the applicant should have been promoted in that vacancy in the year 1986 itself. ~~But~~ Even though the applicant had been promoted on Adhoc basis in the year 1986 for no fault of the applicant, atleast it must be construed that the applicant as having been promoted on regular basis from the year 1986 in the post of OS Gr.II and so his seniority is liable to be counted as if the applicant had been promoted on regular basis with effect from 1986. Admittedly, the applicant had been promoted on Adhoc basis in the year 1986 to the Post of OS.Gr.II. No malafides are attributed by the applicant against the respondents in filling up the post on adhoc basis in the year 1986. It is upto to the competent authority either to fill up the post on adhoc basis or on regular basis depending upon the exigencies of Administration. So, in the

absence of any malafides on the part of the respondents in filling up the post of OS.Gr.II on adhoc basis and not on regular basis, it is not open for us to say that the action of the respondents in filling up the said post on adhoc basis is not valid. No doubt, a regular vacancy might have been available in the year 1986. It is upto the competent authority to decide whether the said vacancy had to be filled up on adhoc basis or on regular basis. The applicant does not have any right to ask the respondents that he alone has to be promoted as OS.Gr.II on regular basis in the vacancy. But, by the by, the applicant has only right to be considered for promotion on regular basis provided he is eligible. If the applicant had right in the year 1986 for the said vacancy of OS.Gr.II, when the same had not been filled up on regular basis it was open for the applicant to approach the competent authority to give a direction to the concerned authority to fill up the post on regular basis. But the applicant does not appear to have taken any such steps. ~~But~~ As a matter of fact, the applicant herein has accepted his adhoc promotion from the year 1986. After having accepted his adhoc promotion in the year 1986, now it is not open for the applicant to plead that he should have been promoted on regular basis from the year 1986 on-wards to the post of OS Gr.II. It is needless to point out that in the absence of the recruitment rule, adhoc service cannot at all be counted. Unless the recruitment rule specifically says that adhoc service can also be counted for the purpose of seniority on regularisation, the said adhoc service absolutely is of no use to any Government/Railway servant for the purpose of seniority. Adhoc appointments generally are done without following the required procedure for filling-up on regular basis. Adhoc arrangements are made as a

stop gap arrangement to suit the administrative convenience. A Government servant/Railway servant must be deemed to have entered into the grade only when his service had been regularised. Admittedly, in this case, the services of the applicant had been regularised in the post of OS Gr.II. So, we see no reason to interfere with the combined seniority list dated 7.9.1992 that had been prepared with regard to OS Gr.II. So, we see no merits in this OA and this OA is liable to be dismissed and it is accordingly dismissed leaving the parties to bear their own costs.

(Dictated in the Open Court).

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

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated : 30th July, 1993. Deputy Registrar (J)

To

1. The Chief Personnel Officer, S.C.Rly, Secunderabad-371.
2. The Chief Signal & Telecom Engineer, Maintenance, S.C.Rly, Secunderabad.
3. The Divisional Railway Manager (Broad Gauge) Vsn/ad S.C.Railway, Secunderabad.
4. The Senior Divisional Signal & Telecom Engineer (Construction I) S.C.Rly, Secunderabad.
5. The General Manager, Union of India S.C.Railway, Secunderabad.
6. One copy to Mr.P.Rattaiah, Advocate, CAT Hyd.
7. One copy to Mr.N.V.Ramana, SC for Rlys. CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

pvm

TYPED BY

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. A. B. GORTHY : MEMBER (A)

AND

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

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 30-7-1993

~~ORDER~~/JUDGMENT:

M.A/R.A/C.A.N.

in

O.A.No.

1135/92

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

