

(32)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.151/92

decided on : 23-2-95

Between

K. Sunder Rao : Applicant

and

1. Union of India, rep. by  
General Manager, SC Rly.  
Rail Nilayam  
Secunderabad

2. Chief Personnel Officer  
SC Rly, Rail Nilayam  
Secunderabad

3. Dy. Chief Mechanical Engr.  
Carriage Repair Shop  
SC Rly., Tirupati : Respondents

Counsel for the applicant : G. Ramachandra Rao  
Advocate

Counsel for the respondents: J.R. Gopal Rao, SC for  
Railways

Coram

Hon. Mr. Justice V. Neeladri Rao, Vice Chairman

Hon. Mr. R. Rangarajan, Member (Admn)

DA.151/92

Judgement

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

Heard Sri G. Ramachandra Rao, learned counsel for the applicant and Sri J.R. Gopal Rao, learned standing counsel for Railways..

2. The applicant is an I.T.I. Certificate Holder with the Trade Welding. He joined the Wagon Workshop at Guntupalli, Krishna District, in South Central Railway, as Khalasi (Unskilled) on 15-4-1981. In response to the notification No.P.137/CRW/TPTY dated 8-12-81, issued by R-2, the applicant volunteered for transfer to the Carriage Repair Shop at Tirupathi. It is stated in the notification dated 8-12-1981 referred to supra "that as per the practice followed for absorbing optees, they will be absorbed in the same grade in which they were working at the time of exercising option"

3. The decision was communicated to reclassify all semi-skilled posts of Artisans to Skilled grades and 60% of unskilled posts in workshops and 50% in the Open line as Khalasi Helpers in the semi-skilled grade vide Railway Board letter No.E(P&A)1-82/JC-1 dated 13-11-82. The above order was given retrospective effect from 1-8-1978. The applicant pleaded that in pursuance of the above letter of the Railway Board, his Khalasi post was reclassified as semi-skilled with effect from 1-8-1981. The said allegation for the applicant was not denied in the counter filed <sup>by</sup> the respondents.

4. The applicant was relieved in the Wagon Workshop at Guntupalli on 14-3-1987 and then he joined at Carriage Repair Shop at Tirupathi. The applicant made a representation to R-2 when he was absorbed only in the unskilled category in Carriage Repair Shop at Tirupathi. The applicant was informed by lr. No. TR/P.612/ART./Vol.III dated 8-1-1992 (vide Annexure 6) of R-3 that his request for absorption in the semi-skilled grade was rejected. Being aggrieved, this OA was filed praying for declaration that the applicant is deemed to have been transferred from Wagon Workshop, SC Railway, Guntupalli, to Carriage Repair Shop, in Tirupathi, in the semi-skilled grade of Welder with all consequential benefits including seniority & promotion to the next higher post.

5. The contentions for the respondents are two fold :

i) In the office order No.A/20/87 dated 14-3-87 (Annexure IV) of R-3 it was clearly mentioned that as the applicant and others referred to therein were willing to go over to Carriage Repair Shop, Tirupathi, in which they were working at the time of exercising option they were reverted to the grades they were holding at the time of exercising option as indicated. Accordingly, the applicant was absorbed in Carriage Repair Shop in Tirupathi in the unskilled grade.

ii) When the reclassification with retrospective effect from 1-8-1978 was ordered by Railway Board letter dated 24-11-1982, a decision was taken that the optees have to be absorbed in the Carriage Repair Shop, Tirupathi, in the grade in which they were actually working at the time of exercising option and they ~~should~~ <sup>should</sup> not be absorbed in

the grade in which they were taken by subsequent proceedings while giving the retrospective benefits as per Railway Board letter dated 24-11-1982. (vide para 5 of the counter.)

6. There is fallacy in the second contention for the respondents. The applicant was in a semiskilled grade from 1-8-1981 in view of the benefit that was given to him as per Railway Board letter dated 24-11-1982.


Though the applicant was actually working in unskilled grade by the time he had given option, in view of the subsequent proceedings whereby he was treated as <sup>in</sup> semi-skilled grade with effect from 1-8-1981 and as he was given the pay scale of semiskilled grade with effect from 1-8-1981, it has to be held that he was in semi-skilled grade by the time he exercised option to come over to Carriage Repair Shop, Tirupati. There is nothing in the Railway Board letter dated 24-11-1982 to indicate that the optee will not have the benefit of the grade which was given with retrospective effect for consideration about the grade in which he has to be absorbed in the Carriage Repair Shop. There is no question of reversion of the applicant to unskilled as even before he exercised option to come over to Carriage Repair Shop, Tirupathi, he was being paid in the pay scale of semi-skilled grade. Hence, we find that the applicant was actually in the grade of semi-skilled by the time he exercised option (the option was exercised between 8-12-81 and 15-12-1982) and hence, he has to be absorbed in Carriage Repair Shop, Tirupathi, in the category of semi-skilled Welder.

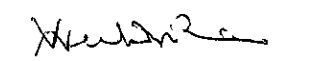
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7. In the above view there is no need to consider for disposal of this OA as to whether the optees who volunteered to join Carriage Repair Shop, Tirupathi, have to be absorbed in the grade in which they were working by the time they exercised option or in the grade in which they were working by the time they were relieved in the Parent Unit to enable them to join in Carriage Repair Shop, Tirupathi.

8. Accordingly, the seniority of the applicant in the category of semi-skilled Welder in the Carriage Repair Shop, Tirupathi, has to be fixed and if on that basis it transpires that his juniors were already considered for promotion, the case of the applicant also has to be considered for promotion and if he has to be promoted he has to be given notional promotion from the date on which his juniors were promoted and the monetary benefits have to be paid from 1-3-1991 (this OA was filed on 21-2-92), if such a notional promotion has to be given from the date earlier to 1-3-1991, But if promotion has to be given after 1-3-1991, he has to be given monetary benefits from that date.

9. The OA is ordered accordingly. No costs./

  
(R. Rangarajan)  
Member(Admn)

  
(V. Neeladri Rao)  
Vice Chairman

Dt. February 23, 95  
Dictated in Open Court

  
Deputy Registrar(J)CC

To

1. The General Manager, Union of India,  
sk S.C.Rly, Railnilayam, Secunderabad.
2. The Chief Personnel Officer, SC Rly, Railnilayam, Secunderabad.
3. The Deputy Chief Mechanical Engineer, Carriage Repair Shop,  
S.C.Rly Tirupati.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr.J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

P5 J. Ram  
21.2.95