

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION No.225/92

DATE OF JUDGEMENT 5 - IV - 1993

Between

D. Umamaheswara Rao

.. Applicant

and

1. Union of India rep. by
General Manager,
South Eastern Railway,
Garden Reach
Calcutta.
2. Senior Accounts Officer(Construction)
S.E.Railway, Bilaspur, MP
3. Chief Personnel Officer, SE Rly,
Garden Reach, Calcutta.
4. Chief Engineer(Constn.)
SE Rly, Bilaspur *Madhyapradosh.*

Counsel for the Applicant :: Mr G. Ramachandra Rao

Counsel for the Respondents :: Mr NR Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI A.B. GORTHY, MEMBER(ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

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..contd.

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JUDGEMENT

{As per Hon'ble Shri T. Chandrasekhara Reddy, Member(Judl.)}

This application is filed under Section 19 of the Administrative Tribunals Act, to direct the respondents to fix the pay of the applicant in the scale of Rs.700-900 w.e.f. 4.9.1980 by giving him promotion on par with his juniors in the construction department and in the open line of Civil Engineering Department with all consequential benefit and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. Facts giving rise to this OA, in brief, are as follows:

3. The applicant was appointed as Senior Estimator in the Civil Engineering Department of the South Eastern Railway in the scale of Rs.150-225/- after having been selected by the Railway Service Commission, Calcutta. The applicant was initially posted to Construction Organisation, under Chief Engineer(Construction) South Eastern Railway, Garden Reach, Calcutta, whose office was shifted subsequently to Bilaspur. The applicant joined the services on 12.12.1955. The applicant was given lien in Open Line of the South Eastern Railway. The applicant was promoted to officiate as Temporary Estimator on a stop-gap measure in the scale of Rs.260-350 w.e.f. 1.6.1958 as per the orders of the Chief Engineer(Construction) South Eastern Railway Calcutta dated 16.6.1958, and on revision of scale of pay w.e.f. 1.1.1973, the applicant was placed in the scale of Rs.550-750 as Head Estimator and the next promotion to the applicant is to the post of Chief Estimator in the scale of Rs.700-900.

T. C. Reddy

4. In the same construction organisation, which is under the control of Chief Engineer (Construction) SE Rly, Bilaspur, one Sri MJ Ambalkar, Head Estimator who had also been in the open line and who is junior to the applicant was promoted as Chief Estimator initially on adhoc basis w.e.f. 4.9.1980, whereas the Applicant who is senior to the said Ambalkar was promoted on Adhoc basis in the year 1982 in the same construction Organisation. It is the grievance of the applicant that from the year 1980 onwards his junior, the said Sri Ambalkar had been drawing higher pay than the applicant and it is the case of the applicant, that his pay also is liable to be equated to that of the said Sri Ambalkar from 1980 onwards with consequential benefits. Hence, the present OA is filed for the relief as indicated above.

5. Counter is filed by the respondents opposing this OA.

6. In the counter filed by the respondents, it is maintained, that the applicant had given in writing specifically on 7.5.80 that he would not be in a position to go on promotion to Bilaspur when the said post of Chief Estimator Bilaspur was offered to him in the year 1980 and requested in the said application to arrange his promotion as Chief Estimator under D.E.N.Construction, Raipur under whom he was then working by upgrading the post of Head Estimator. So, in view of the applicant's written refusal dated 7.5.80 the said Ambalkar was promoted on adhoc basis and as the said Sri Ambalkar had joined as Chief Estimator in 1980 itself, he had earned certain increments and due to this, there was a difference of pay in between the applicant and the said Sri Ambalkar, even though the applicant was senior to the said Ambalkar in the post of Head Estimator. The applicant waited

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for his promotion as Chief Estimator in the Raipur unit itself where he was working and his case was considered and the applicant had been promoted as Chief Estimator in Raipur unit, w.e.f. 20.7.82. Hence, it is maintained on behalf of the respondents that the applicant is not entitled for equation of pay with that of Sri Ambalkar who is working as Chief Estimator in Bilaspur unit.

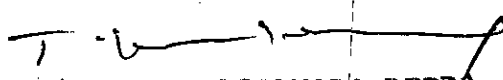
7. We have heard both counsel for the parties.

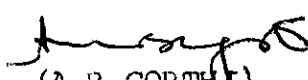
8. It is not in dispute that the applicant's seniority had been correctly maintained by Chief Engineer (Construction) South Eastern Railway, Bilaspur, in the list of seniority of Chief Estimators in the scale of Rs.700-900 as on 1.1.1986 wherein the applicant's name is shown as senior to the said Sri Ambalkar. So, as could be seen, in the parent cadre, namely in the Open Line cadre, the correct seniority of the applicant and the said Sri Ambalkar is maintained though under fortuitous circumstances that the said Sri Ambalkar came into the construction cadre on promotion on adhoc basis and is drawing more pay than the applicant in the construction cadre. As the applicant and herein and the said Sri Ambalkar belong to open line cadre, on promotion, in the said open line cadre, if there is any anomaly in the pay of the applicant and of the said Sri Ambalkar in the same grade, it is open for the applicant to ask for rectification of the anomaly by stepping up his pay equal to that of the said Sri Ambalkar in the grade they are working. But even before asking for stepping up of pay, it is necessary that the applicant and the said Sri Ambalkar should be working on regular basis in the parent cadre ^{in the same grade} for stepping up the pay of the applicant with ~~that~~ ^{that} of Sri Ambalkar. Admittedly in this case, the applicant, as well as, the said Sri Ambalkar are working in the construction organisation on adhoc basis.

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The said Sri Ambalkar had gained benefit as he accepted promotion from the post of Head Estimator to the post of Chief Estimator in the construction wing in 1980 itself, whereas, the applicant had accepted the promotion only in the year 1982. But as the applicant and the said Sri Ambalkar are not working in the parent cadre i.e. Open Line cadre, it is not open for the applicant to ask for stepping up of his pay equal to that of his junior Sri Ambalkar in the construction cadre, where they are now working on Adhoc basis. So, law does not permit equation of pay of the applicant to that of his junior Sri Ambalkar as they are not working in the parent cadre on regular basis. Hence, we see no merits in this OA and the OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 5-11-1993


Deputy Registrar (J)

- To
1. The General Manager, Union of India, S.E. Railway, Garden Reach, Calcutta.
 2. The Senior Accounts Officer (Construction) mvl/ad S.E. Railway, Bilaspur M.P.
 3. The Chief Personnel Officer, S.E. Railway, Garden Reach, Calcutta.
 4. The Chief Engineer (Construction) S.E. Rly, Bilaspur. M.P.
 5. One copy to Mr. G. Ramachandra Rao, Advocate, CAT. Hyd.
 6. One copy to Mr. N.R. Devraj, Sr. CGSC. CAT. Hyd.
 7. One copy to Library. CAT. Hyd.
 8. One spare copy.

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PSC
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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: 5 - 10 - 1993

~~ORDER~~ JUDGMENT:

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

in

O.A.No. 225/92.

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.

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