

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 278/92.

Dt. of Decision : 8-2-95.

R. Guruswamy

.. Applicant.

Vs

1. The General Manager,
SC Rly, Secunderabad.
2. The Chief Personnel Officer,
SC Rly, Secunderabad.
3. The Divisional Railway Manager,
(Personnel), SC Rly,
Vijayawada.
4. The Divl. Railway Manager,
(Personnel), SC Rly,
Guntakal.

.. Respondents.

Counsel for the Applicant : Mrs. N. Shakti

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

2. Jv.

92

OA 278/92.

JUDGMENT

Dt:8.2.95

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard ~~Shri~~ Mrs. N.Shakti, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicant joined service as Junior Clerk in 1980. He was promoted as Senior Clerk on 5.1.1981 and as Head Clerk on 1.1.1984. He was promoted on trial basis as Chief Clerk being an ST candidate and his trial period of six months ended on 30.11.1986 on which date he was regularly empanelled after having ^{been} found fit for promotion as Chief Clerk (vide Annexure-I).

3. In the seniority list of the Chief Clerks the date of regular promotion of the applicant as Chief Clerk was noted as 12.10.1987 instead of 30.5.1986. Five Chief Clerks were promoted to ^{the post of} Office Superintendent Grade-I on 17.6.1991 and five more were promoted to the post of OS Gr.I on 31.7.1991. The applicant submitted representation to the higher authorities that as he was actually promoted to the post of Chief Clerk on 30.5.1986, he was senior even to those who were promoted as OS Gr.I on 17.6.1991 and hence he too should be given promotion to the post of OS Gr.I. The order dated 22.10.1991

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(vide Annexure-VII) was issued to the effect that the date of promotion of the applicant as Chief Clerk ~~is~~ is 30.5.1986 and as such he is placed at Item No.1 above Shri B.Dakshinamurthy. Then the applicant was promoted as OS Gr.I by the order dated 11.11.1991 (vide Annexure-IV) and posted at Guntakal. But when he was not given promotion with effect from 17.6.1991, the date on which his juniors in the category of Chief Clerks were promoted to the post of OS Gr.I, this CA was filed seeking direction to the respondents to review the promotions made to the cadre of OS Gr.I vide O.O.No.P/EST/180/91, dated 17.6.1991 and 31.7.1991 of the Chief Personnel Officer, Headquarters Office and to promote the applicant to the post of OS Gr.I from the date his juniors were promoted with all consequential benefits such as pay and allowances, seniority etc.

4. It is also prayed in this CA that the applicant may be repatriated to Vijayawada Division by keeping in view his seniority and by ignoring the decentralisation of the cadre of OS Gr.I which was scheduled to come into force with effect from 1.4.1992.

5. It is stated that during the pendency of this OA, orders were issued by giving notional promotion to the applicant to the post of OS Gr.I from 17.6.1991, the date on which his juniors were promoted to that post and accordingly he is shown as senior in the category of OS Gr.I to those who were promoted on 17.6.91 and 31.7.91.

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6. But the grievance of the applicant is that he was not given arrears ~~when~~ from 17.6.1991 till the date he assumed the charge of the post of OS Gr.I in pursuance of the order dated 11.11.1991. It is stated for the respondents that the applicant was not given arrears for that period on the principle of 'no work no pay'.

7. The lapse was only on the part of the department in noting the date of promotion of the applicant to the post of Chief Clerk as 12.10.1987 instead of 30.5.86. When once juniors of the applicant were promoted, the applicant immediately complained and then within four months orders were issued placing the applicant at Sl.No.1 in the category of Chief Clerks and shortly thereafter, he was promoted to the post of OS Gr.I. But when the applicant was not given even notional promotion with effect from 17.6.1991, this OA was filed on 27.3.1992. Thus, when the work of OS Gr.^I~~II~~ was not extracted from the applicant from 17.6.1991 till he actually assumed that post, it is only due to the action of the respondents and not due to the fault of the applicant. There are no laches on the part of the applicant, for he moved the concerned authority shortly after his juniors were promoted. Hence, in view of the material on record, we feel that the respondents are not justified in declining to pay the arrears to the applicant from 17.6.1991. It is stated that the applicant

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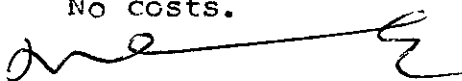
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was transferred back to Vijayawada Division and hence this OA had become infructuous in regard to the second relief.

8. In the result, this OA is ordered as under:-

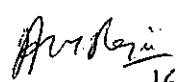
The applicant has to be given the arrears from 17.6.1991, the date on which he was given promotion as OS Gr.I during the pendency of the OA ^{to} ~~and~~ the date on which he actually assumed the post of OS Gr.I.

No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)

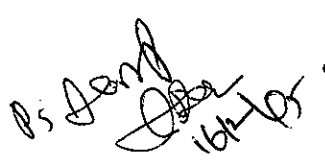

(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 8th February, 1995.
Open court dictation.


16-235-
Deputy Registrar(J)CC

- To vsn
1. The General Manager, S.C.Rly, Secunderabad.
 2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
 3. The Divisional Railway Manager(Personnel)
S.C.Rly, Vijayawada.
 4. The Divisional Railway Manager(Personnel)
S.C.Rly, Guntakal.
 5. One copy to Mrs. N.Shakti, Advocate, CAT.Hyd.
 6. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
 7. One copy to Library, CAT.Hyd.
 8. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M(AIM)

DATED: 8-2-1995

~~ORDER~~/JUDGEMENT:

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

in

O.A.No.

278/92

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

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