

(67)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD.

O.A.NO. 380 of 1992.

Between

Dated: 6.3.1995.

L. Vijaya kumar

...

Applicant

And

1. The Secretary, Railway Board, Ministry of Railway,  
New Delhi.
2. The General Manager, South Central Railway, IIIrd floor,  
Rail Nilayam, Secunderabad.
3. The Chief Signal and Telecommunications, Engineer (Construction),  
South Central Railway, 7th floor, Railnilayam,  
Secunderabad.
4. The Chief Signal and Telecommunications Engineer (Maintenance),  
South Central Railway, 7th floor, Railnilayam,  
Secunderabad.
5. A.Seshagiri Rao.
6. M .A.Aleem.
7. V.Muralidhar

... Respondents

Counsel for the Applicants : Sri. S.Ramakrishna Rao

Counsel for the Respondents : Sri. N.R.Devaraj, Sr. CGS

Contd:...2/-

O. A. 380/92.

Dt. of Decision : 06-03-95.

ORDER

I As per Hon'ble Shri A.V. Haridasan, Member (Judl.)

The applicant who is an Assistant Signal & Telecom Engineer, under the SC Railway, has prayed that the DPC proceedings may be called for and impugned adverse remarks made in the ACRs of the applicant may be quashed and the respondents may be directed to restore his seniority with retrospective effect from the date his juniors were promoted with the benefit of arrears of pay and fixation of pay etc., The applicant was recruited to the Railways through UPSC Engineering Service Examination held in the year 1981. He joined service on 22-7-1983 Class-I post. On completion of training he was posted in Vijayawada Division as AST Tele/8ZA, w.e.f., 1-7-86. He was later on transferred to Railway Electrification Allahabad by order dated 20-10-86 and was posted as ASTE/RE, Central Railway, Bhusawal. After working on that post till 18-11-1987 he was transferred to SC Railway, Sec'bad by order dated 4-11-1987. His grievance is that while his juniors who were recruited in the successive years were promoted to the senior scale on different dates during the years 1987, 1989, 1990 and 1991, he was not promoted to senior scale and that his juniors have also been promoted to the next grade of junior administrative grade. It has been alleged by the applicant that the railway electrification project, Allahabad did not conduct the third and final examination which was held by the SC Railway for the applicants only in the year 1989 and that this could have stood in the way of his promotion on the date on which his juniors were promoted. The applicant is also aggrieved by the adverse remarks in the ACR communicated during the year 1987, 1988 and 1991. The applicant has stated that these adverse remarks

were not based on any facts and they are therefore liable to be expunged. As the applicant was not promoted to senior scale as also Junior Administrative Grade, he has filed this application for the reliefs as stated above.

2. The prayer of the applicant is opposed by the respondents on the ground that the applicant was not considered fit by the competent authority for promotion to senior scale while his juniors were promoted for the reasons that he did not pass the third and final examination, and his probation had to be extended and that even after passing of the examination <sup>when</sup> he was considered for promotion, on account of very poor service record, he could not be promoted.

3. We have gone through the pleadings in this case. the proceedings of selection to senior scale as also junior administrative grade were also made available for our perusal.

4. At first we will consider the case of the applicant regarding the adverse entries in his ACRs for the year 1987 and 1988. These adverse entries were communicated to him. But he did not make any representation. As a matter of fact if he was aggrieved by the adverse entries in the ACR and if they were not based on any fact, he should have made representation for expunging the same. Without doing that, he cannot now seek a relief of having these entries expunged. Coming to the adverse entries in the ACR of the applicant in the year 1991, the same was communicated to him and he had made a representation. The representation was considered by the competent authority and by order dated 27th December 1991 at Annexure-8, the competent authority felt that the adverse remarks would stand. All the points raised by the applicant in his representation were considered and the competent authority has on the basis of the material made available decided that the performance of the applicant has been properly rated by the authorities concerned. We therefo

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Copy to:-

1. The Secretary, Railway Board, Ministry of Railways, New Delhi.
2. The General Manager, South Central Railway, IIIrd floor, Rail Nilayam, Secunderabad.
3. The Chief Signal and Telecommunications, Engineer (Construction), South Central Railway, 7th floor, Railnilayam, Secunderabad.
4. The Chief Signal and Telecommunications Engineer (Maintenance), South Central Railway, 7th floor, Railnilayam, Secunderabad.
5. One copy to Sri. S.Ramakrishna Rao, advocate, CAT, Hyd.
6. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

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do not find any reason to interfere with the order dated 27th December 1991 rejecting the representation of the applicant to expunge the adverse entries in the ACR of the applicant in the year 1991. Now coming to the applicant's claim for promotion to the senior scale as also Junior Administrative Grade, from the proceedings of the General Manager, it is evident that the applicant could not be promoted to senior scale in 1987, because he had not completed his probation. <sup>After</sup> Passing the requisite third and final examination he was ~~not~~ considered for promotion. He was not found fit to be promoted, on account of his poor service record. In view of what is reflected in the ACR of the applicant for successive years when the case of the applicant was ~~not~~ considered for promotion, We do not find any infirmity in the decision of the competent authority that the applicant was not fit to be promoted. Under these circumstances we are of the considered view that the applicant is not entitled to the reliefs prayed for in the application. ~~However~~ However we are informed that the applicant has been subsequently promoted to senior scale in the year 1993. He may have to strive for further advancement in his career. The application fails and the same is dismissed. Leaving the parties to bear their own costs.

*Subs*  
(A.B. Gorthi)  
Member(Admn.)

*Alur*  
(A.V. Haridasan)  
Member(Judl.)

Dated : The 6th March 1995.  
(Dictated in Open Court)

*Ansley*  
Dy. Registrar (1)

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contd. 5

In the CAT Hyd Bench  
at Hyd.

Am Mr. HABIB m(3)

Am Mr. HABIB m(A)

Judgement dt 6/3/95

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mt. 386792

O.A. is dismissed. No  
order as to costs.

