

(92)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

OA 509/92

Dt. 15-6-95

Between

K.S. Roberts : Applicant
and

1. Union of India represented
by the General Manager
South Central Railway
Secunderabad

2. Divisional Railway Manager
Vijayawada : Respondents

Counsel for the Applicant : Shri V. Krishna Rao

Counsel for the Respondents : Shri N.V. Ramana

Coram

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman
Hon'ble Shri R. Ranga Rajan, Member (Admn.)

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[AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN]

J U D G E M E N T

Heard Shri V. Krishna Rao, learned counsel for the applicant and also Shri N.V. Ramana, learned standing counsel for the Respondents.

2. The applicant was appointed as loco Khalasi in locoshed Vijayawada from 1-11-78. Basing on his willingness he was posted as Khalasi in diesel shed and he joined that diesel shed on 13-11-84. By order dated 30-7-85 (vide material paper No. 2) the applicant was promoted as welder ^{in pay scale of 260-400}. It was specifically mentioned therein that the said promotion was only by way of officiating arrangement and it ^{was} ordered purely on ad hoc basis and it does not confer on him any prescriptive right for continuance, seniority, confirmation in the grade carrying pay scale of Rs.260/400.

3. A decision was taken by the divisional authorities to regularise the services of the applicant in the grade of welder with effect from 24-1-89 but that decision was contested by the South Central Railway Employees Sangh in the PNM meeting held on 7/8-3-91. The General Manager SCR by letter dated 12-9-91 (material paper No. 4) addressed to the General Secretary, SCRE Sangh, Secunderabad stated that the services of the applicant as welder were regularised with effect from 1-7-85 as requested by the Sangh and hence the subject matter was treated as closed. But by letter dated 16-12-91 addressed by the General Manager to the same General Secretary

it was stated that the applicant failed in the LDC Examination conducted for selection to the 25 per cent of the vacancies in the category of Welder and the services of the applicant were rightly regularised from 24-1-89. The same is assailed in this OA.

4. It is not in controversy that the post of Welder which is a skilled post has to be filled as per the extant rules as follows:-

- (a) 50% by Semi-skilled staff in Grade Rs. 210-290 (RS) by Trade test.
- (b) 25% by Limited Departmental Competitive examination from amongst the volunteers from unskilled staff in grade Rs. 196-232 (RS) and semi-skilled staff in grade Rs. 210-290 (RS) and
- (c) 25% by Direct Recruitment.

By 1985, the applicant was working only as a Khalasi in the then scale of Rs. 196-232 and it was an unskilled post. Thus by 1985 he was not eligible for consideration for promotion to the post of Welder in the seniority quota for by then he was only in unskilled category ~~category~~ but not in semi-skilled category. When the applicant was not eligible for consideration for promotion to the post of Welder, his contention that the period of service from the date of his ~~ad hoc~~ promotion as welder has to be reckoned has to be negatived, even though there was regular vacancy for the post of Welder and the applicant was given promotion as Welder in that vacancy. Hence it was referred to as ad hoc though the promotion was to the post of a welder in a regular vacancy.

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5. It is stated for the Respondents that the applicant's junior in the diesel shed was promoted to the semi-skilled post on 24-1-87 and the eligibility period for consideration for promotion to the skilled post on the basis of seniority quota is 2 years in the semi-skilled grade, and ^{hence} the applicant's services were regularised with effect from 24-1-89. It is not the case of the applicant that his junior was promoted to the semi-skilled post in the diesel shed prior to 24-1-⁸⁷~~89~~. Hence the applicant cannot claim regularisation in the post of a Welder from a date prior to 24-1-89. // But the learned counsel for the applicant vehemently urged that when it is a case of the date of alteration of the regularisation, the same cannot be done adverse to the applicant without the issual of notice to him. But the letter dated 12-9-91 whereby it was stated that the services of the applicant in the post of Welder was regularised from 1-7-85 was addressed to the General Secretary of the Sangh. But it is not the case of the applicant that while taking the decision others in the seniority unit who were affected by the alteration of the date of regularisation of the services of the applicant were given notices to submit their objections. So when that decision was itself taken without issual of notices to the affected parties, and when that decision was merely conveyed to the Association, the contention

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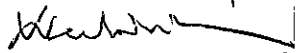
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for the applicant that the subsequent alteration by letter dated 16-12-91 has to be held as illegal for want of notice to the applicant cannot be sustained.

6. In the result, the OA fails and accordingly it is dismissed. No costs.//



(R. RANGARAJAN)
Member (Admn.)



(V. NEELADRI RAO)
Vice-Chairman

Dated the 15th June, 1995
Open court dictation

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Deputy Registrar(J)CC

To

1. The General Manager, Union of India,
S.C.Railway, Secunderabad.
2. The Divisional Railway Manager,
Vijayawada.
3. One copy to Mr.V.Krishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, ~~Adv~~ SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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