

(89)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 532/92
T.A.No.

Date of Decision : 26-11-92.

<u>G.Narayana & others</u>	Petitioner.
_____	Advocate for the petitioner (s)
Versus	
_____	Respondent.
_____	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. R.BALASUBRAMANIAN, Member (Admn.)

THE HON'BLE MR. T.Chandrasekhara Reddy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes.*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *(Yes)*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *(Yes)*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

(Signature)
HRBS

(Signature)
HTCR

(90)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 532 of 1992

Date of decision: 26-11-1992.

Between

- | | |
|-------------------------|----------------------------|
| 1. G.Narayana | 21. Anwar Shariff |
| 2. N.Rammohan Rao | 22. Md.Yousuff Ali |
| 3. K.Narsing Rao | 23. Khaja Habubuddin |
| 4. H.L.Raj | 24. V.P.Satyanarayana |
| 5. Sheikh Abdul Rasheed | 25. Ayodya Chandraiah |
| 6. Yousuf Shariff | 26. Bhagwandas |
| 7. K.Narsingh Rao | 27. R.Pentaiah |
| 8. B.B.Laxman | 28. J.B.Swamy |
| 9. K.Pochaiah | 29. M.Laxman |
| 10. Samson Siman | 30. G.Yadagiri |
| 11. M.Narender | 31. P.Mallesha |
| 12. R.Rajaiah | 32. Moinulla Hussain |
| 13. P.Manyam | 33. B.Narsimha Rao |
| 14. B.Venkataiah | 34. P.R.Jaya Chandra Reddy |
| 15. K.Narayana | 35. J.Prakash Narayana. |
| 16. C.Surya Prakash | |
| 17. Kankaiah | |
| 18. K.Durga Swamy | |
| 19. T.Kishtaiah | |
| 20. M.A.Bari | |
- ... APPLICANTS

A N D

1. Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
2. Divisional Railway Manager,
MG/HYB/SC, S.C.Rly., Sec'bad.
3. Divl.Rly.Manager,
BG/SC, S.C.Rly., Sec'bad.
4. Sr.Divl.Mechanical Engineer,
BG, S.C.Rly., Sec'bad.
5. Sr.Divl.Personnel Officer,
BG, S.C.Rly., Sec'bad.

... RESPONDENTS

Appearance: ,

For the applicants: Shri S.Lakshma Reddy, Advocate

For the respondents: Shri N.V.Ramana, SC for Rlys.

CORAM:

Shri
The Hon'ble/R.Balasubramanian, Member (Admn.)

The Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

contd...2.

8/2

J U D G M E N T

(of the Bench delivered by the Hon'ble Shri R. Bala-
subramanian, Member (Admn.)).

This O.A. is filed with a prayer to set aside the provisional seniority list of first firemen/Diesel Assts., published vide letter No.CP/371/ELR dated 31-1-1992 of the Divisional Railway Manager, SC BG Division, Secunderabad.

2. The applicants, formerly of the MG Division were working as Diesel Assistants in the BG Division. When they were working as II Firemen in MG Division, they were deputed and directed to report to the BG Division as II Firemen vide order dated 26-7-1988 of the MG Division. *to transfer II firemen from MG to BG division* This was followed by a decision and options were taken from staff of the MG Division who volunteered. The optees were to carry their seniority. Later, by a letter dated 13-12-1989, the CPO asked the DRM, SC-BG to prepare a common gradation list of II Firemen, covering the II firemen of both BG and MG division staff working in BG Division and also the yard khalaasis of the BG Division who were senior to the junior most II firemen of MG division prior to the bifurcation of the division into BG and MG divisions. Even before this was done, the 2nd and 5th respondents promoted several II firemen and yard khalaasis of the BG division as Diesel Assistants. The applicants were overlooked. However, by an order dated 16-10-90, the D.R.M., MG Division promoted the applicants as Diesel Assistants. They were, however, directed to continue as Diesel Assistants in the BG Divn.

contd...3.

P. J.

Page

It is stated that the applicants asked for repatriation back to their parent (MG) division. In the alternative, they demanded absorption in BG Division in terms of the earlier options they had exercised in 1989. Then followed the order dated 26-8-1991 of the DRM BG Divn., permanently absorbing them as diesel assistants in the BG Division. On 31-1-1992, a provisional seniority list of diesel assistants of the BG Division was published. In the seniority list, the weightage claimed by ^{the applicants} ~~them~~ as II firemen of BG Division was not given. They were assigned seniority only on the basis of the date of actual promotion in the MG Division as Diesel Assistants. The applicants represented against this on 17-2-1992. By the impugned letter dated 17-6-92 they were informed that they could be given seniority in the grade of diesel assistants only from 16-10-90, the date of promotion to that cadre. It was further stated that if they are not willing to continue in the BG Division on this basis, they can go back to MG Division. Draft declaration form for expressing their willingness/unwillingness was also enclosed. The applicants want this order of the BG Division to be set aside.

3. The respondents opposed the O.A. and have filed a counter affidavit. It is their contention that the deputation of the applicants as II Firemen from MG to BG Division was only temporary till the shortage in BG Division was overcome, when the applicants would be repatriated back to their parent division. 87 II firemen were deputed in this manner from MG Division to BG Division

72

93

In July 1989, a number^b of II firemen working at Dornakal and Kazipet were repatriated, at their request, to MG division. 38 remained in the BG Division. When they were eventually promoted as diesel assistants in the MG Division, they were permitted to continue to work in BG Division. In April 1991, the BG Division decided to absorb the 38 diesel assistants. At that time, three more wanted to go back to MG Division and they were repatriated. The remaining 35 (the applicants) were absorbed in August 1991. None of them wanted to go back to the MG Division. It is their case that the applicants can ~~only~~ be given seniority only with effect from their actual promotion as diesel assistants.

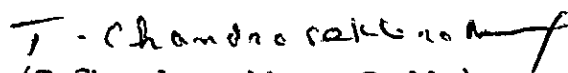
4. We have examined the case and heard the rival sides. Shri Laxma Reddi relies heavily on the fact that they were asked to exercise options even in the cadre of II Firemen when the applicants were transferred to BG Division. According to him, the reference to their seniority was a guarantee that they would be absorbed as II firemen in the BG Division. He also relies on the CPO's letter of 13-12-89. The respondents ~~do not~~ admit of an attempt to draw up a combined seniority list of II firemen of BG and ^{deputies of} MG ~~deputies~~. But it was given up perhaps due to resistance from BG staff. There was no order of absorption of II firemen of the MG Division in the BG Division. If, as claimed by Shri Laxma Reddi, the applicants were under the impression that they joined BG division on absorption as II firemen, it is surprising that they kept quiet when junior II firemen of the BG division were promoted as diesel assistants, ~~in BG division~~. It was only MG Division that promoted them as diesel assistants, w.e.f. 16-10-90.

93

Again, when they were absorbed, for the first time, in BG Division in August 1991. there were no protests from them questioning, what according to them was, a second absorption. They started protesting only on seeing the impugned provisional seniority list. It is seen that they were absorbed in the BG Division only in August 1991 when they were already regular diesel assistants to which grade they were promoted on 16-10-90. In the grade of diesel assistants, the applicants cannot expect a better date of reckoning whether in the MG or BG Divisions. Hence their placement in the seniority list based on this date is quite in order. The BG Division is fair in giving an option to the applicants to go back to the MG Division despite their absorption in the cadre of diesel assistants. The decision whether or not to continue in the BG Division rests with the applicants. We see no reason to interfere in this case and dismiss the O.A. with no order as to costs.



(R. Balasubramanian)
Member/A



(T. Chandrasekhara Reddy)
Member/J

Dated the 26th day of November, 1992.

mhb/


Dy. Registrar

To

1. The Chief Personnel Officer,
S.C.Rly, Railnilayam, Secunderabad.
2. The Divisional Railway Manager,
MG/HYB/SC.S.C.Rly, Secunderabad.
3. The Divisional Railway Manager,
BG/SC.S.C.Rly, Secunderabad.
4. The Senior Divisional Mechanical Engineer,
BG.S.C.Rly, Secunderabad.
5. The Sr.Divisional Personnel Officer,
BG, S.C.Rly, Secunderabad.
6. One copy to Mr.S.Lakshma Reddy, Advocate, CAT.Hyd.
7. One copy to Mr.N.v.Ramana, SC for Rlys, CAT.Hyd.
8. One copy to Deputy Registrar(J)CAT.Hyd.
9. Copy to All Reporters as ^{per} standard list of CAT.Hyd.
10. One spare copy.

pvm

550 Camp
23/11/92