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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.633 of 1992

DATE OF JUDGMENT: 26 OCTOBER, 1992

BETWEEN:

Mr. Ch.Balavenkata Reddy ..

Applicant

AND

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

2. The Sr. Divisional Personnel Officer,
S.C.Railway,
Divisional Office (Personnel Branch),
Guntakal.

3. The Divisional Commercial Superin-
tendent, Guntakal. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr. G.Ramachandra Rao

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Standing Counsel
for Railways.

CORAM:

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

Hon'ble Shri C.J.Roy, Member (Judl.)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

The applicant filed this application under Section 19 of the Administrative Tribunals Act, 1985 claiming a relief to direct the respondents to consider the applicant's case for promotion to the post of Goods Supervisor or its equivalent post in the grade of Rs.1600-2660 (RSRP) pending disposal of the disciplinary proceedings initiated against him in the year 1988.

2. The facts that are necessary to determine the case are briefly as follows:-

The applicant while working as Divisional Commercial Inspector in the scale of pay of Rs.1400-2300 (RSRP) at Guntakal, he was temporarily promoted as Goods Supervisor in the grade of Rs.1600-2660 (RSRP) against an existing vacancy and posted at Renigunta as per the proceedings of the 3rd respondent dated 11.4.1990 which is Annexure-I.

3. By subsequent proceedings dated 5.7.1990, the 2nd respondent had promoted the applicant to officiate in the post of Goods Supervisor in the pay scale of Rs.1600-2660 and posted him at Guntakal. The applicant states that he was qualified and eligible for promotion to the post of Goods Supervisor in the pay scale of Rs.1600-2660 and his

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case was considered by the Departmental Promotion Committee for promotion and he was promoted to the post of Goods Supervisor.

4. The applicant was in fact promoted on regular post to the pre-revised grade of Rs.455-700 (RS) before 25.9.1986 and he is exempted to appear for the selection to the grade of Rs.1600-2660 (RSRP).

5. While so, the applicant was issued with a notice dated 5.11.1990 proposing to revert him from the post of Goods Supervisor to the lower post of Divisional Commercial Inspector on the ground that he was not eligible for promotion in view of the disciplinary proceedings pending against him for imposing a major penalty. The applicant filed O.A. No.936/90 and the same was disposed of at the admission stage as premature directing the applicant to make a representation to the respondents. It was also directed by the Tribunal in the above said O.A., that the action in pursuance of the proceedings dated 5.11.1990 shall not be taken till the disposal of the representation.

6. The representation made by the applicant on 25.11.1990 to the 2nd respondent pursuant to the orders in OA 936/90 was not considered and the 2nd respondent issued the order dated 7.12.1990 reverting him to the post of Divisional Commercial Inspector.

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7. Aggrieved by the orders dated 7.12.1990, the applicant filed O.A No.1005/90 before this Tribunal which was admitted with an interim order suspending the impugned order dated 7.12.1990 till the final disposal of the case. The OA No.1005/90 was dismissed on the ground that the disciplinary proceedings initiated against the applicant cannot be said to have been dropped due to the delay in completing the proceedings and in as much as the applicant was promoted to the next higher post when the disciplinary proceedings are pending, he could be reverted to the lower post.

8. The applicant states that the disciplinary proceedings were initiated against him in the year 1988 in respect of the lapses said to have been committed by him in the year 1984 and the charge sheet was issued after expiry of four years from the date of the alleged lapses. The enquiry was completed on 27.10.1989, a show cause notice dated 29.1.1990 was issued to the applicant and he submitted a reply to the same on 31.1.1990 and thereafter no action was taken by the Disciplinary Authority. It is stated that the respondents cannot indefinitely keep the proceedings pending and deny promotion to the applicant on the ground of pendency of the disciplinary proceedings. When the ~~no~~ disciplinary proceedings are pending against an employee, his case shall

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be considered and the recommendations of the Departmental Promotion Committee shall be kept in a sealed cover and if there is delay in completing the proceedings for over two years, the case of the employee can be considered for promotion to the next higher post on adhoc basis, subject to the result of the disciplinary proceedings. The above said rulings by the Hon'ble Supreme Court in "Union of India Vs. KV Janakiraman and others (AIR 1991 SC 2010)", have not been complied with by the respondents. It is stated that the action of the respondents in keeping the disciplinary proceedings pending indefinitely and denying promotion to the applicant to the next higher post of Goods Supervisor is ex facie illegal, unjust and arbitrary. Hence, this application.

9. No counter is filed by the respondents. We have heard Mr. T. Panduranga Chari for Mr. G. Ramachandra Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao for Mr. N. V. Ramana, learned Additional Standing Counsel for the Respondents.

10. In this application, we find that the application is not maintainable as it is barred by res judicata in view of the fact that the grounds raised by the applicant herein for consideration of his case for adhoc promotion to the post of Goods Supervisor or its equivalent post in the grade

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of 1600-2660 pending disposal of the disciplinary proceedings, were already raised by the very same applicant in O.A.No. 1005/90.

11. The O.A.No.1005/90 was dismissed by us on 10.7.92 stating that, "the initial promotion in April 1990 was only an adhoc one and not ordered by the competent authority and while ordering regular promotion, the competent authority stipulated a clause that it was subject to no case pending against him and since the disciplinary case was pending against him on that date, the contention of the applicant that the disciplinary proceedings should be deemed to be dropped when there is delay in completing the proceedings was not agreed to."

12. We have also gone through the decision of the Hon'ble Supreme Court in "Union of India Vs. K.V.Janakiraman (AIR 1991 SC 2010)" and also the guidelines to the Departmental Promotion Committee. While dismissing the O.A.1005/90 the principles laid down by the Hon'ble Supreme Court in the case cited supra, were examined, particularly with reference to Para-4 of the Judgment and also the Departmental rules.

13. The Review Petition No.84/92 in O.A.No.1005/90 cited supra filed by the applicant was also dismissed on 3.8.1992.

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14. The applicant indirectly claims what has been decided already in the O.A.No.1005/90 which is supposed to be deemed to have been raised and suffers ~~to~~ the illegality of the resjudicata. The applicant, therefore, cannot raise the similar grounds which were raised in his earlier O.A. No.1005/90, and also R.A. 99/92 which was ~~decided~~.

15. All the grounds raised in the O.A.No.1005/90 were considered in our Judgment dated 10.7.1992. The application is barred by resjudicata and is not maintainable.

16. In the circumstances, the application is dismissed with no order as to costs.

R.Balasubramanian

(R.BALASUBRAMANIAN)
Member (Admn.)

wsby
(C.J.ROY)
Member (Judl.)

8/10/92
Dated: 26 October, 1992. Dy. Registrar (Judl.)

Copy to:-

1. General Manager, South Central Railway, Union of India, Secb
2. The Sr. Divisional Personnel Officer, S.C.Railway, Divisional Office Personnel Branch), Guntakal.
3. The Divisional Commercial Superintendent, Guntakal.
4. One copy to Sri. G.Ramachandra Rao, advocate, 3-4-498, Barkatpura, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

*12/10/92
19/10/92*

Records

OA-633/92

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR.T. CHANDRASEKHAR REDDY: M(JUDL)

AND

THE HON'BLE MR.C.J.ROY : MEMBER(JUDL)

Dated: 26/10/1992

ORDER/JUDGMENT:

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

in

O.A. No.

633/92

T.A. No.

(wp. No)

Admitted and interim directions issued.

Allowed

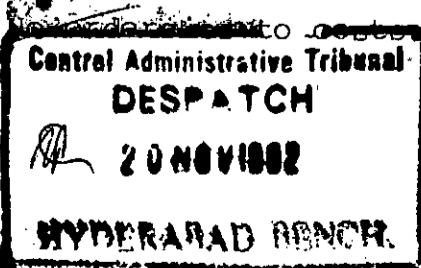
Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered/Rejected



pvm