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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 640/92.

Dt. of Decision : 08-03-95.

1. Advaiah	25. A. Mallesh
2. Muthaiah	26. K. Kondapochiah
3. Jangaiah	27. Shanker
4. Narasimha	28. Yadagiri
5. Madanaiah	29. A. Yadagiri
6. Arumugam	30. B. Nagender Singh
7. Eswaraiah	31. P. Krishna
8. Md. Anwarullah Khan	32. Easaiah
9. KS Srinivas	33. T. Narasimha
10. Lakshminarayana	34. V. Narasimha
11. Eshwaraiyah	35. Pochaiah
12. Shabuddin	36. Sadgunachari
13. K. Ramulu	37. Ramasharan
14. Veeraiah	38. P. Panduranga Rao
15. Komaraiah	39. Nagesh
16. Ellaiah	40. Krishna
17. V. Satyanarayana	41. Devarah
18. Devender	42. Rajalingam
19. T. Ballaiah	43. MC Viswanathan
20. Sattar	44. B. Ashok
21. Narsing Rao	45. Md. Abdul Kareem
22. Rajaiah	46. Rajamma
23. Yadagiri	47. Lexmi
24. MA Khaleel	.. Applicants

Vs

1. The Chief Personnel Officer, SC Rly, Rail Nilayam, Secunderabad.	
2. The Divl. Railway Manager (P) SC Rly, Secunderabad (MG).	
3. The Divisional Engineer, MG Division, Sec'bad.	
4. Inspector of Works, NI, SCRly, Lallaguda, Sec'bad.	.. Respondents.

Counsel for the Applicants : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. N. R. Devraj
SC for Rlys.

CORAM:

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

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

O.A.No.640/92 Dt. of decision: 8-3-1995.

JUDGEMENT

(As per the Hon'ble Sri R. Rangarajan, Member(A))

Heard.

2. There are 47 applicants in this O.A. They were recruited as CMR Khalasis under IOW, NI, Lallaguda, SCR, Secunderabad between the years 1961 to 1981. They were confirmed at various dates during the period 1966 - 1992. ^A Their statement showing the service particulars of the applicants herein as on 1.7.91 is enclosed as Annexure-3 to this application.

3. Para 2511 (a) (1990 Edition) (Para 2005 of old edition) was amended on 7.5.83. Prior to that amendment a casual labour treated as temporary are entitled to all the rights and privileges admissible to railway servant as laid down in Chapter XIII in IREM.....their service prior to the date of completion of six months continuous service will not, however, count for any purpose like retirement benefits, seniority, etc.

4. However, after the amendment of the above said Para of IREM on 7.5.83, the services prior to absorption in temporary/permanent regular cadre after the required selection/screening

will not count for the purpose of seniority and the date of the regular appointment after screening/selection will determine their seniority vis-a-vis other regular employees. As per the amended provision casual labour shall be eligible to count only ~~that~~^{half the} period of service rendered by them after attaining the temporary status on completion of 120 days continuous employment and before regular ~~observation~~^{absorption} as qualifying service for the purpose of pensionary benefits.

5. The question as to whether the amendment as per Railway Board order dt.7.5.83 is prospective or retrospective had arisen for consideration in W.P.No.4058/82 on the file of A.P. High Court. The said Writ Petition was disposed of on 20.10.84 only by holding that the said amendment was prospective. In pursuance of the said judgement, this Bench of CAT disposed of T.A.565/86 and some other TAs and OAs by giving directions in accordance with ~~that~~ directions in the judgement, dt.20.10.84 in W.P.No.4058/82 on the file of A.P. High Court.

6. As all these applicants in this OA were ~~appointed~~^{engaged} prior to 7.5.83, they were under impression that their seniority will also be determined in accordance with the above judgement in WPs/TAs and OAs mentioned above. They also represented the Railway Administration to give effect to the orders of the

High Court and CAT in terms of the above said directions in the OAs quoted above. But their representations were rejected by the CPO, SCR in his communication dt. 5.6.'91 stating that their request for counting seniority from the date of attaining temporary status is not covered by any rules in force. Aggrieved by the above rejection for the revision of seniority by R-1, the applicants herein filed this application praying for a direction to the respondents to include the service of the applicants from the date they attained temporary service till the day their services were regularised in the regular service and give them seniority from the day they attained temporary status and count the said service for all benefits including seniority and retirement benefits.

7. The Apex Court held in 1993 (1) SLR 550 (Smt. V. KAMESHWARI V/s UOI & Others) that the amendment as per Railway Board order dt.7.5.83 is prospective and in this context it was observed as under: "under the amended provision of Para 2511(a) (1990 edition) corresponding to (2005 of old edition) the seniority of casual labour who are subsequently absorbed in temporary/permanent cadre has to be reckoned on the basis of the date of their regular appointment after screening/selection and the service prior to absorption in temporary/regular cadre after the required selection/screening would not count for the purpose of seniority. The only exception that has been made is in respect of the employees whose seniority had already been determined either by any judicial decision or

otherwise and it is provided that the seniority was determined shall not be altered."

8. In view of the above decision of the Supreme Court, a situation had arisen ~~as to the inter-se~~ how to fix the seniority of those employees vis-a-vis others ~~which the~~ in the units seniority had already been altered in respect of some of the staff who approached the High Court of A.P. and this Tribunal by filing TAS/OAs praying for giving them seniority as per Para 2511 (a) (1990 Edition) (Para 2005 of old edition) of IREM prior to its revision, dt.7.5.83.

9. In view of the above development, this in OA.829/91 & batch Tribunal had held that in regard to the employees who are similarly situated to those applicants who filed WP/TAs in those seniority units, the seniority list had to be revised so as to reckon their services for the purposes of seniority from the date on which the temporary status was attained. In regard to other units where the seniority list was not revised in pursuance of the directions given in WPs/TAs/OAs the seniority list had to be prepared by taking into consideration the length of service from the date of regularisation in regard to those who were initially engaged as casual labour strictly in accordance with the judgement of the Supreme Court in 1993(1) SLR 554.

10. OAs 829/91 and the batch ~~were~~ disposed of by this Tribunal on 1.11.93 in accordance with the principle laid down in para 9 supra. This OA is also

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~~xc~~

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to be disposed off following the principle laid down in OA 829/91 and the batch, and a suitable direction has to be given accordingly.

11. The relief for counting the total service from the date of attaining of temporary status till the date of regularisation for retiral benefits as prayed for in the OAs 829/91 and batch has been rejected by this Tribunal as it is one of the policy. In view of the above, the prayer in this OA for counting the entire service from the date of attaining the temporary status for purpose of retiral benefits is rejected. However, they are entitled for counting half of the period of casual service after attaining the temporary status after completion of 120 days service and before regular absorption as qualifying service for pensionary benefits as per the amended provisions of Para 2511(a) of IREM.

12. In view of the above other reliefs for purpose of counting seniority the following directions are given:

(1) If the seniority list in this unit i.e. IOW, NI, Lallaguda, SCR, Secunderabad had been revised in terms of unamended provisions of the Para 2511(a) of IREM, in regard to the some of the employees who belonged to this unit, in pursuance of various WPs/TAs/ OAs, the seniority of the applicants herein also has to be revised to reckon their service for the purpose of seniority from the date on which their temporary status was confirmed.



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(2) In case the seniority list in this unit is not revised, then the seniority list which had already become final need not be revised and the remaining seniority lists, if any, have to be prepared by taking into consideration the length of service from the date of regularisation in regard to those who were initially engaged as casual labour following judgement of the Supreme Court in 1993 (1) SLR 554.

13. The O.A. is ordered accordingly. No costs. /

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(R. Rangarajan)

Member(A)

Neeladri
(V. Neeladri Rao)
Vice Chairman

Dt. 8-3-1995

Amber
Deputy Registrar(Judl.)

kmv Copy to:-

1. The Chief Personnel Officer S.C.Railway, Railnilayam, Secunderabad.
2. The Divl. Railway Manager(P) S.C.Railway, Secunderabad (MG).
3. The Divisional Engineer, MG Division, Secunderabad.
4. Inspector of Works, NI, S.C.Railway, Lallaguda, Secunderabad.
5. One copy to Sri. P.Krishna Reddy, Advocate, CAT, Hyd.
6. One copy to Sri. N.R. Devaraj, SC for Rlys, CAT, Hyd.
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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(ADMN)

DATED - 8/3/ 1995.

ORDER/JUDGMENT:

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

O.A.No. ⁱⁿ 64092

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.

