

(60)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A. NO. 662/92

Between:

Date of Order: 24.2.95.

B.Koteswara Rao

...Applicant.

And

1. Union of India represented by General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The Divisional Railway Manager, South Central Railway, Vijayawada.
3. The Divisional Electrical Engineer, (Maintenance), South Central Railway, Vijayawada.

...Respondents.

Counsel for the Applicant ; Mr.G.Ramachandra Rao

Counsel for the Respondents ; Mr.V.Bhimanna, Addl.CGSC.

CORAM:

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

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

contd...

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O.A.No.662/92.

Date: 24/1/95

JUDGMENT

[as per Hon'ble Sri R.Rangarajan, Member(Administrative)]

Heard Sri G.Ramachandra Rao, learned counsel for the applicant and Sri V.Bheemanna, learned Standing Counsel for the respondents.

2. The applicant joined as a Khalasi in the Electrical Department(General service) of South Central Railway, Vijayawada. He was kept under suspension from 1.7.1974 to 30.9.1976 for his involvement in a theft case and was finally removed from service with effect from 27.10.1976 after holding departmental enquiry on the charge of theft. Aggrieved by the removal order from service, he filed Writ Petition bearing W.P.No.6391/79 in the High Court of Andhra Pradesh, which was transferred to this Tribunal as T.A.No.22/86. The said TA was disposed of by judgment dt. 23.10.1986 quashing the removal order from service. Review Petition bearing R.P.No.5/88 filed by the respondents in that OA was also rejected. SLP bearing Civil Appeal No.4340/90 filed in the Supreme Court was also dismissed.

3. In view of the above development, the applicant was re-instated into service on 17.7.1990 treating the period from the date of removal till reinstatement as duty as Khalasi in the scale of Rs.750-940 (RSRP). The period of suspension from 1.7.1974 to 30.9.1976 was also treated as on duty and he was paid an amount of Rs.1,08,596-00 as arrears of wages, increments, bonus etc. In terms of his option, he came over to Train Lighting Wing of the cadre and he was subjected to Trade Test for

promotion to the post of Khalasi Helper. After passing the trade test, he was promoted as Khalasi Helper on train lighting wing on 30.8.1991 by order of R-2 bearing No.PRC/109/1991 under letter No.B/P.535/II/2/Vol.14 (Annexure-7 of materials papers). It is stated for the applicant that he gave representation to the respondents on 30.9.1991 claiming promotion to the next higher grade of Skilled Fitters in the scale of Rs.1200-1800 and above on par with his juniors and also to promote him automatically to the next higher post without holding any trade test. This representation did not elicit any response. Hence, he filed this OA on 3.8.1992 praying for declaration that the applicant is deemed to have been promoted to the next higher post of Khalasi Helper and the Train Lighting Fitter Skilled grade from the dates when his juniors were promoted to the said post with all consequential and attendant benefits including arrears of pay after setting aside the order dt. 30.8.1991 in so far as it is against the applicant in denying the arrears of pay.

4. The main contention of the applicant that he was reinstated into service from 17.7.1990 and as the period of suspension, and also the period from the date of removal ~~the~~ ~~to~~ date of reinstatement had been treated as duty, he should be promoted to the higher post of Skilled Fitter and above on par with his immediate juniors. His further contention is that the removal order was set aside and therefore he is entitled for all the consequential benefits in pursuance of the order of this Tribunal in TA No.22/86 such as promotion, ~~arrears of~~ pay and allowances from the date when his immediate junior was promoted to the higher grade

5. The respondents have admitted that the applicant was reinstated into service on 17.7.1990 and also the period of suspension and the period between the date of removal and reinstatement was regularised as duty. The respondents further submit that the applicant had chosen to come on the Train Lighting Wing and he has to compare his position only with his immediate junior on the Train Lighting Wing. Sri Ch. Prasada Rao (SC) was junior to the applicant, who also belongs to the S.C. The seniority position of the applicant is 190 and that of Sri Prasada Rao is 207. As such the applicant was promoted as Khalasi Helper in the scale of Rs. 210-290 (RS)/800-1150 (RSRP) on train lighting wing with effect from 1.8.1978 on proforma, the date from which his immediate junior Sri Prasada Rao was promoted as Khalasi Helper on the train lighting wing, and actual payment from the date of actual promotion was also granted to him in terms of office order dt. 30.8.1991. As the post of Fitter in train lighting wing is categorised/safety category an employee can be promoted only on completion of a minimum period of two years service in the lower grade.

6. Railway Board vide letter No. PC.III/CRC/V dt. 27.1.1993 reduced the minimum period of service for restructured posts from two years to one year as a one time exemption. In view of this the applicant was promoted as train lighting Fitter Gr.III in the scale of Rs. 950-1500 (RSRP) with effect from 20.4.1993. It is also stated by the respondents that the inter-se seniority of the applicant herein has been interpolated at the appropriate place on par with his junior Sri Prasada Rao and his further promotion also would be regulated on par with his junior after the lapse of stipulated time intervals and after passing the prescribed trade tests.

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7. From the above submission of the respondents, it is clear that the applicant herein will get promotion to higher grade posts of Skilled Grade-II and Grade-I Highly on par with his immediate junior after stipulated period of service in the lower grades. As the applicant was reinstated, ~~as the order of removal was set aside~~, he is entitled to get the consequential promotions on par with his junior as if he was continued in service without any break. We held similarly in OA 751/92 decided on 25.7.1994. The only reason which appears to restrain the respondents from promoting him is that he has to complete two years of service in the lower grade before being promoted to higher grade. As he was erroneously removed from service and as the removal order was set aside by this Tribunal he should have been promoted on the date when his immediate junior was promoted as if he was in service without break. In this case, the period of two years in the lower grade before promotion to higher grade should not be insisted upon in view of our observations as above. In any case, as he was promoted to the post of Train Lighting Fitter Gr.III on 20.4.1993, he can be promoted as Train Lighting Fitter Grade-II now as he is about to complete two years of service in that grade. He should immediately be tradetested for promotion to this grade and if found suitable in the first attempt, he should be promoted and his seniority position in the Train Lighting Fitter Gr.II should be suitably interpolated above that of his immediate junior Sri Prasada Rao if Sri Prasad Rao is already working in Gr.II Fitter post. In view of the fact that his removal from service was irregular, the prescribed two years of service in the grade of Train Lighting Fitter Gr.II should not be insisted upon in his ^{case} for promotion ^{to} Train Lighting Fitter Gr.I also if he is already due. He should be promoted to the said grade also provided he passes the trade test for Fitter Grade-II in the first attempt and thereafter passes the trade test for Grade-I also in the first attempt.

To

1. The General Manager, Union of India,
South Central Railway, Railnilayam,
Secunderabad.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
3. The Divisional Electrical Engineer,
(Maintenance), South Central Railway,
Vijayawada.
4. One copy to Mr.G.Ramachandra Rao, Advocate,CAT,Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT,Hyderabad.
6. One copy to Library,CAT, Hyderabad.

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10/13/05

8. His pay and allowances on promotion to the Fitter Gr.III, II & I should be fixed, if he passes the trade test for the above grades in the first attempt notionally from the date when his immediate junior Sri Prasada Rao was promoted to those grades. This Tribunal is consistently holding the view that the monetary benefits in such cases have to be given ^{from} one year prior to the date of filing of the OA. As this OA was filed on 3.8.1992 the applicant is entitled for monetary benefits from 3.8.1991 only.

9. In the result, the following directions are given:-

The applicant should be promoted to the Train Lighting Fitter Grade-III/Grade-II/and Grade-I from the date when his immediate junior Sri Prasada Rao was promoted ^{respective} provided he passes the trade test for the above grades in the first attempt itself. In case the applicant fails to qualify himself in the grade test in the first attempt he is entitled for promotion only from the date when he passes the trade test subsequent to the first attempt. If he is promoted to the higher grades by passing the trade test in the first attempt itself, he is entitled for notional fixation of his pay from the date when his immediate junior was promoted to the higher grades. He is entitled for the monetary benefits due to such promotions from 3.8.1991 i.e. one year prior to the date of filing of this OA (this OA was filed on 3.8.1992).

10. The OA is ordered accordingly. No costs.

dr
(R.Rangarajan)
Member(Admn.)

V.Neeladri Rao
(V.Neeladri Rao)
Vice Chairman

Dated 24 th Feb., 1995.

Grh.

Amrit
13-3-95
DEPUTY REGISTRAR(J)

contd...

04.662/92
04.10.1995
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NELADRI RAO
VICE- CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN: M(ADMIN)

DATED 24-2 - 1995.

ORDER/JUDGMENT:

M.A./R.A./C.A. NO.

O.A. No. 662/92 ⁱⁿ

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.

10/3/95
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