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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.729/92.

Date of Judgement : 7-3-94

H.Siva Mohan Rao

.. Applicant

Vs.

1. Union of India, Rep. by
The Secretary,
Min. of Transport,
Dept. of Railways
(Railway Board),
New Delhi-1.
2. Divl. Railway Manager,
Broad Gauge,
Secunderabad.
3. Sr. Divl. Mech. Engineer,
Diesel Loco Shed,
S.C.Rly., Kazipet,
Warangal Dt.
4. Divl. Railway Manager,
Vijaywada,
Krishna Dt.

.. Respondents

Counsel for the Applicant :: Shri K.Sudhakar Reddy

Counsel for the Respondents:: Shri J.R.Gopala Rao,
SC for Railways

C O R A M

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhar Reddy : Member(J)

J u d g e m e n t

{ As per Hon'ble Shri A.B.Gorthi : Member(A) }

The Applicant is challenging the decision of the Respondents to post him as Jumbo Truck Operator Grade-I w.e.f. 9.7.91 whereas he was working as a Jumbo Truck Operator Grade-I in his previous establishment, i.e., Carriage Repair Shop, Tirupati.

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2. The Applicant was initially appointed as Diesel Cleaner in the Mechanical Department of South Central Railway. While he was working in the Diesel Loco Shed he was promoted to semi-skilled post in the scale of Rs.210-290 (RS) w.e.f. 14.3.78. While he was working in that capacity, he was on his own request transferred to the Construction side, namely to the Office of the Divisional Engineer, Vijaywada vide order dt. 10.4.80. In his own parent cadre his lien was maintained and he was given proforma promotions to the skilled grade of Rs.260-400 (RS) w.e.f. 1.8.78 and to the Skilled Grade-II in the scale of Rs.380-560 (RS) w.e.f. 1.1.84.

3. The Applicant admittedly was working as Jumbo Truck Operator Grade-I in the Carriage Repair Shop under the Divisional Engineer (Construction), Tirupati in the scale of Rs.1320-2040 (RSRP). He was then sought to be repatriated to his parent organisation as his services in the Construction organisation were no longer required. On his repatriation to his parent organisation he was to be posted as Jumbo Truck Operator Grade-II. Challenging the ^{repatriation} the Applicant filed O.A.No.353/87 which was dismissed vide the Tribunal's order dt. 6.2.90 ^{having been} On a review petition filed by the Applicant, the Tribunal disposed of the same with an observation that it is for the Respondents to work out the administrative problems as to the finding a suitable post in the parent organisation.

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4. The Respondents have clarified in their reply affidavit that for promotion in the parent organisation, the same has to be governed by the seniority of the Applicant in the parent organisation. The fact that he was working as a Jumbo Truck Driver Grade-I while working with the Construction side would not entitle him to be given the same grade on his repatriation to the parent organisation. The Respondents further clarified that none junior to the Applicant was promoted to Grade-I and even the immediate senior to the Applicant was yet to be promoted to Grade-I w.e.f. 1.6.85.

5. We have heard learned counsel for both the parties. Shri K.Sudhakar Reddy, learned counsel for the Applicant contended that the Respondents were not justified in reverting the Applicant to the lower grade of Jumbo Truck Operator Grade-II on repatriation of the Applicant from the Construction side to the parent organisation. He maintained that irrespective of the fact whether the Applicant worked in the Construction organisation or in the parent organisation, the fact that he was duly promoted as Jumbo Truck Operator Grade-I cannot be ignored by the Respondents. In this context he has drawn our attention to a judgement of the Tribunal in O.A.No.462/86. That was the case where the Applicant was not promoted although some who were junior to him were promoted. Consequently, the Tribunal held that he too should be promoted in the parent organisation taking into consideration the fact that he was already regularised as a

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Lorry Driver. The facts of that case being different the same will not be of any assistance to the case of the Applicant herein.

6. On behalf of the Respondents it was stated that some of the material exhibits filed by the Applicant were not genuine and even in the past there were instances where the Applicant indulged in fabricating false official documents. We need not go into this aspect of the matter. In the instant case there are some factors which are clear and admitted. The Applicant initially joined the Diesel Loco Shed, Kazipet of the Mechanical Department. Thereafter, at his own request he was transferred to the Construction organisation and was posted to the Carriage Repair Shop at Tirupati. Nevertheless he was given proforma promotions to the post of skilled and Skilled Grade-II with retrospective effect in the parent organisation. In the Construction organisation he was promoted as Lorry Driver Grade-I but when his services were no longer required in the Construction organisation he had to be repatriated. At the time of repatriation, keeping in view the seniority of the Applicant in the parent organisation he was posted as Jumbo Truck Driver Grade-II. Nowhere in the application it is stated that anyone junior to in the parent organisation was already promoted as Jumbo Truck Driver Grade-I. The Applicant by virtue of his service in the Construction organisation and by the fact that he was promoted in that organisation as

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Lorry Driver Grade-I cannot be said to be entitled to secure seniority over his erstwhile juniors in the parent organisation. The seniority of the Applicant in the parent organisation has to be maintained in accordance with the extant instructions. As in accordance with his seniority he could only be taken back in the parent organisation as Jumbo Truck Operator Grade-II, we do not find any irregularity in the impugned order issued by the Respondents posting the Applicant as Jumbo Truck Operator Grade-II on his repatriation to the parent organisation.

7. In view of the aforestated, we find no merit in this O.A., which is hereby dismissed. There shall be no order as to costs.

T. Chandrasekhar Reddy
(T.Chandrasekhar Reddy)
Member(J).

A.B.Gorthy
(A.B.Gorthy)
Member(A).

Dated: 7 March, 1994.

18/3/94
Deputy Registrar(Judl.)

br.

Copy to:-

1. The Secretary, Min. of Transport, Department of Rlys, (Railway Board), Union of India, New Delhi-1.
2. Divl. Railway Manager, Broad Gauge, Secunderabad.
3. Sr. Divl. Mech. Engineer, Diesel Loco Shed, S.C.Railways Kazipet, Warangal Dist.
4. Divl. Railway Manager, Vijayawada, Krishna District.
5. One copy to Sri. K.Sudhakar Reddy, advocate, CAT, Hyd.
6. One copy to Sri. J.R.Gopala Rao, SC for Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

5th copy 17/3/94

O.A. 729/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. S. GORTHI : MEMBER (A)
AND

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

AND

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

Dated: 7/3/-1994.

~~ORDER/JUDGMENT:~~

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

in

O.A. No.

729/93

~~T.A. No.~~

~~(W.P. No.)~~

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

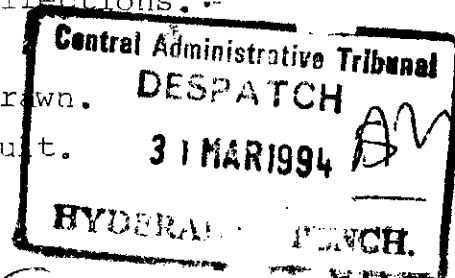
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



pvm

3/3/94