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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

OA 352/92

DATED 3-7-95

BETWEEN

G. Kameswar Rao s/o Sri Kameswar Rao
aged about 61 years, Retired Chief Clerk,
Divisional Railway Manager's (Personnel)
office, Hyderabad, M.G. Division,
South Central Railway, Secunderabad.

.... Applicant

and

1. Union of India rep. by its
General Manager, South Central Railway
Rail Nilayam, Secunderabad
2. Divisional Railway Manager,
Hyderabad M.G. Division,
South Central Railway,
Secunderabad

... Respondents

Counsel for the applicant : Shri N. Rama Mohan Rao

Counsel for the Respondents: Shri N.V. Ramana

Coram

Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman

Hon'ble Shri A.B. Gorthi, Member (Admn.)

AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN

J U D G E M E N T

Heard both the learned counsels.

2. It is an unfortunate case where we are not in a position to issue final order in regard to the applicant who has retired from service on 31-12-87, even though the OA was filed on 9-12-92.

3. The applicant joined service in the Grain shop department in Railways on 16-3-1951. When the Central Government has taken decision to wind up the department, steps were being taken for absorbing the employees in the Grain Shop department in other regular/permanent departments. It is stated that on the basis of the experience of the applicant, he was taken as Commercial Clerk in the then pay scale of Rs. 60-150/- on 14-3-1955, and he was confirmed in the said post on 16-8-1956. The applicant made a request for his transfer as Clerk in the pay scale of Rs. 60-130/- and he had given an undertaking on 8-11-1956 as per Annexure 1 to reply statement agreeing for bottom seniority in the category of clerks in the pay scale of Rs. 60-130/-. Accordingly, the applicant was transferred to the post of Clerk in the grade of Rs. 60-130/-.

/(General Manager
& another Vs.
V.R. Siddanti &
Others)

4. The Apex Court held in AIR 1974 SC 1755 that those who are recruited to the Grain Shop department have a right to count their service from the date of entry into the Grain Shop department for fixing their seniority in the regular departments, after they were absorbed therein. The memo. dated 18/25-3-87 (vide Annexure 1 to the OA) was issued fixing the seniority of the applicant above Shri P. Venkataratnam. Memo. dated 30-12-1987 (vide Annexure 2 to the OA)

states that the applicant is deemed to have been promoted to the post of UDC bearing the pay scale of Rs. 130-300 w.e.f. 15-11-1961 and to the post of Head Clerk bearing revised pay scale of Rs.430-700/- from 1-6-1979 and OS Grade-II (Chief Clerk) in the revised pay scale of Rs.550-750/- with effect from 20-3-1982. Thereupon, the DRM, SC Railways submitted proceedings dated 20-11-1989 to the General Manager (vide Annexure 5 to the OA) recommending deemed promotion to the applicant to the post of O.S. Gr. I in the revised pay scale of Rs.700-900 with effect from 15-10-1985 as Shri P. Venkataratnam, junior to the applicant was promoted to the said post as per proceedings dated 11-10-1985. As no orders were passed in pursuance of the said proceedings, it is stated for the applicant that he was constrained to file this OA praying for a direction to the Respondents to revise and re-fix the pension of the applicant on the basis of the pay fixed by the Respondents by giving notional dates of promotion in proceedings No. YP/121/Admn./Perel.Cadre dated 30-12-1987 and for a consequential direction to the Respondents to pay all other pensionary and monetary benefits to the applicant.

5. In one breath the Respondents pleaded that this OA is pre-mature by alleging that the proceedings dated 20-11-1989 vide Annexure 5 to the OA are under consideration, and in another breath it is stated that the claim herein is barred by limitation.

In the course of the arguments it was stated for the Respondents that as this OA is pending, no steps were taken for fixing the seniority of the applicant on the basis of his acceptance for bottom seniority in the post of clerk in the pay scale of Rs.60-130/-. We feel that the first two pleas raised in the reply statement are not tenable and if the concerned authority takes long time, it is open to the aggrieved to move this Tribunal.

6. If the Respondents feel that in view of Annexure I to the reply statement, necessary proceedings have to be issued for re-fixation of the seniority of the applicant and the consequential revised dates of deemed promotion in various other categories, they (the Respondents) should have come up with the same atleast by way of additional reply statement instead of taking the stand that they cannot issue revised proceedings pending disposal of this OA.

7. In these circumstances, it is just and proper to pass the following order:

If the Respondents feel that it is necessary to revise the placement of the applicant in the category of clerks in the then pay scale of Rs.60-130/-. then they have to issue necessary revised proceedings and also consequential proceedings in regard to deemed dates of promotions in various categories by 15th September, 1995 failing which the applicant will be entitled to interest at the rate of 12% per annum if the monetary benefits are payable to the applicant with effect from 16-9-1995.


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6. If any clarification is required by the Respondents, they can move this Tribunal by way of miscellaneous application in this OA. If necessary orders are not going to be issued by the Respondents by 31-10-1995, the applicant is free to move this Tribunal by way of miscellaneous application in this OA for necessary orders.

7. It is needless to say that if the applicant is going to be aggrieved in regard to the final order that ^{has} to be passed by the concerned authority, the applicant is free to move this Tribunal by way of application under Section 19 of the A.T Act.

8. The OA is ordered accordingly. No costs.//


(A.B. GORTHI)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated the 3-7-95
Open court dictation


Deputy Registrar(J)

To NS

1. The General Manager, S.C.Rly, Railnilayam, Union of India, Secunderabad.
2. The Divisional Railway Manager, Hyderabad M.G.Division, S.C.Rly, Secunderabad.
3. One copy to Mr.N.Ramamohan Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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