

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO. 738 of 1992.

Between

Dated: 3.12.1992.

K.M.Phillips

...

Applicant

And

1. Union of India, rep. by Chairman, Railway Board, New Delhi.

2. Dy. Chief Mechanical Engineer, (Wagon Repair Shop), Rayanapadu, Near Vijayawada.

3. General Manager (Personnel), SC Railway, Secunderabad.

.... Respondents.

Counsel for the Applicant : Sri. P.R.Prasad.

Counsel for the Respondents : Sri. D.Gopal Rao, SC for Rlys.

CORAM:

Hon'ble Mr. R.Balasubramanian, Administrative Member
Hon'ble Mr. T.Chandrasekhar Reddy, Judicial Member

(Order of the Division Bench passed by Hon'ble Mr. R.Balasubramanian, Administrative Member)

This application is filed seeking a declaration that the applicant is entitled to be taken in the regular grade of Rs.550-750, as Chargeman 'A' which he was enjoying on a regular basis at the time of relief i.e. before joining Guntupally Workshop of the South Central Railway. He also seeks arrears of salary for the post of chargeman 'A' from the date of relief i.e. from 2.8.82 till date, as well as revision of seniority.

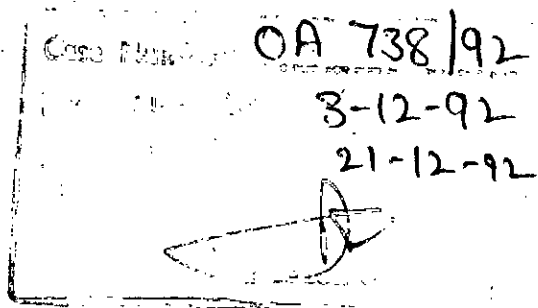
2. The applicant was originally appointed in the Sec-bad division in 1964. In 1969 he was promoted as Chargeman 'B' in the Secunderabad Division. A notification was issued on 26.8.1975 calling for volunteers for the newly established Wagon Workshop, Guntupally. Para-3 of the said notification stated that the initial posting of staff from the volunteers would be in the same grade and pay in which they were working in their respective parent unit at the time of relief. Para-4 of that notification further states that the inter-se seniority of the staff on their transfer to wagon workshop would be determined by the length of service in the grade in their parent unit subject to inter-se seniority of staff coming from the same unit being maintained while inter-collating seniority of staff from the parent unit. At the time of exercising option in response to the notification the applicant was holding the post of Chargeman 'B' in the scale of Rs.428-700. The applicant who opted for absorption in the Guntupally Workshop

Deputy Registrar (Judl.)

... A. S. Srinivas Reddy
Date. 18/12/12
Court Officer,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

1. Chairman, Railway Board, Union of India, New Delhi.
2. Dy. Chief Mechanical Engineer, (Wagon Repair Shop), Rayanapadu, Near Vijayawada.
3. General Manager(Personnel), S.C.Railway, Secunderabad.
4. One copy to Sri. P.R.Prasad, advocate, 1-1-648/3, F-304, Pushpak Apartments, Gandhinagar, Hyd.
5. One copy to Sri. D.Gopal Rao, SC for Railways, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.), CAT, Hyd.
7. Copy to Reporters as per standard list of CAT, Hyd.
8. One spare copy.

12/12/92



registered here as T.A.925/86. This T.A. was finally adjudicated on 3.8.1989 by this Bench. Thereafter another person Sri. KVS Prasad filed OA 882/90, which was adjudicated by this Bench on 27.8.91. The action of the respondents in emphasising on the post held by the transferees at the time of option was declared illegal in the judgement dated 3.8.89 in T.A.925/86. The persons who had reconciled to their posting to Guntupally Workshop based on the position held by them at the time of option acquired a right in the light of the judgement dt.3.8.89. One such person Sri. KVS Prasad asserted his right by approaching us in time in OA 882/90. The question of jurisdiction would not therefore arise since a final direction on the issue was available on/in August, 1989.

5. The next question to be discussed is limitation. The applicant in the O.A. before us (Sri. KM Phillips) is no doubt placed similar to Sri. K.V.S. Prasad, the applicant in OA.882/90, which was decided on 27.8.1992. The main difference is that Sri. Prasad approached this Tribunal in time, unlike Sri. KM.Phillips, the applicant herein who filed this O.A. only on 18.8.1992. The question to be seen is whether this violates limitation. Like in the case of KVS Prasad in OA 882/90, the cause of action for Sri. K.M.Phillips can also be taken to have arisen on 3.8.1989, when this Bench decided T.A.No.925/86. That being so, Sri. KM.Phillips is well beyond the time limit in approaching us. The applicant was placed in a lower post when he was taken at Guntupally. Even though he had reconciled to this, he could have approached us in time after the judgement dated 3.8.89 in T.A.No.925/86 like Sri. K.V.S. Prasad of OA 882/90. Even assuming that he had no knowledge of the judgement in TA 925/86 and O.A. 882/90, he should have been alert when his seniority was adversely affected when the respondents reported revised the seniority list in the light of the judgement dated 3.8.1989 in T.A. 925/86. The applicant should have approached us at least then.

6. The learned counsel for the applicant had cited several judgements in support of his argument that the benefits of judgement should be available to all similarly placed persons whether or not they were parties to such judgements. He could not however show us any decision that those left out, could approach the courts at any time. If they are aggrieved, they should approach the courts in good time. We have to keep in mind the importance of limitation stressed sufficiently in the

was not relieved immediately like many of his juniors viz., T.M.Nageswara Rao, Ravendra Rao and Y. Eswantha Rao. The applicant who was retained in Secunderabad Division was promoted as Chargeman 'A' on 12.12.1979. The applicant was even regularised as Chargeman 'A'. While so the respondents by their memo dated 22.11.1980 transferred the applicant to Guntupally only as Chargeman 'B' as per the option exercised by the applicant in response to the notification dated 25.8.75. This order of the respondents was contrary to what was stipulated in para-3 of the notification dated 25.8.75. While the applicant was only chargeman 'B' at the time of exercising the option, he was a regular chargeman 'A' at the time of transfer to Guntupally. On 25.11.1982 he made a representation requesting the 2nd respondent to promote him as chargeman 'A' since his juniors were already working in that capacity since 1980. Subsequently in T.A.925/86 this Bench ordered that the absorption should be at the grade in which theoptees were working in their previous/parent division at the time of their transfer/relief and not at the time of their option. This order was implemented by the respondents and the seniority list was revised in the case of the applicants in that Transferred application. Following the above judgement on Sri. K.V.S.Prasad filed O.A. 882/90 for the same relief, which was also allowed. Hence the applicant in this Original Application claims the same benefit as others. Not meeting with any success on his representations, he has filed this Original Application.

3. The Respondents have filed counter affidavit opposing the application. It is stated that all these events occurred more than three years prior to setting up of this Tribunal. It is their case that the Tribunal has not jurisdiction to entertain this matter. It is also their case that the applicant should have approached the appropriate forum when felt aggrieved. It is their case that the applicant is not entitled to the relief on account of limitation.

4. We have examined the case and heard the rival sides. We shall initially take up the question of jurisdiction which the respondents have raised. The event of posting to a lower rank at Guntupally Workshop (from chargeman 'A' to Chargeman 'B') at the time of joining the Guntupally Workshop, no doubt occurred more than three years prior to the setting up of this Tribunal. This action of the respondents was challenged by a few persons in the High Court of A.P. which transferred the writ petition to this Tribunal and was

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO. 738 of 1992.

Between

Dated: 3.12.1992.

K.M.Phillips

...

Applicant

And

1. Union of India, rep. by Chairman, Railway Board, New Delhi.
2. Dy. Chief Mechanical Engineer, (Wagon Repair Shop), Rayanapadu, Near Vijayawada.
3. General Manager (Personnel), SC Railway, Secunderabad.

Respondents.

Counsel for the Applicant : Sri. P.R.Prasad.

Counsel for the Respondents : Sri. D.Gopal Rao, SC for Rlys.

CORAM:

Hon'ble Mr. R.Balasubramanian, Administrative Member
Hon'ble Mr. T.Chandrasekhar Reddy, Judicial Member

(Order of the Division Bench passed by Hon'ble Mr.
R.Balasubramanian, Administrative Member)

This application is filed seeking a declaration that the applicant is entitled to be taken in the regular grade of Rs.550-750, as Chargeman 'A' which he was enjoying on a regular basis at the time of relief i.e. before joining Guntupally Workshop of the South Central Railway. He also seeks arrears of salary for the post of chargeman 'A' from the date of relief i.e. from 2.8.92 till date, as well as revision of seniority.

2. The applicant was originally appointed in the Sec-bad division in 1964. In 1969 he was promoted as Chargeman 'B' in the Secunderabad Division. A notification was issued on 26.8.1975 calling for volunteers for the newly established Wagon Workshop, Guntupally. Para-3 of the said notification stated that the initial posting of staff from the volunteers would be in the same grade and pay in which they were working in their respective parent unit at the time of relief. Para-4 of that notification further states that the inter-se seniority of the staff on their transfer to wagon workshop would be determined by the length of service in the grade in their parent unit subject to inter-se seniority of staff coming from the same unit being maintained while inter-collating seniority of staff from the parent unit. At the time of exercising option in response to the notification the applicant was holding the post of Chargeman 'B' in the scale of Rs.428-700. The applicant who opted for absorption in the Guntupally Workshop

judgement of the Hon'ble Supreme Court in the S.S.Rathor Vs. Union of India case (AIR 1990 SC 10). If the applicant did not approach the court in time, even when action to his disadvantage was taken such as the revision of seniority list in the light of the judgement the benefit of which he now seeks, he is guilty of laches. The case is hit by limitation and we dismiss the case with no order as to costs.

Sd/-

Deputy Registrar(Judl.)

CERTIFIED TO BE TRUE COPY

... *A. S. ...* ...

Date. 18/12/92
Court Officer,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

Copy to:-

1. Chairman, Railway Board, Union of India, New Delhi.
2. Dy. Chief Mechanical Engineer, (Wagon Repair Shop), Rayanapadu, Near Vijayawada.
3. General Manager(Personnel), S.C.Railway, Secunderabad.
4. One copy to Sri. P.R.Prasad, advocate, 1-1-648/3, F-304, Pushpak Apartments, Gandhinagar, Hyd.
5. One copy to Sri. D.Gopal Rao, SC for Railways, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.), CAT, Hyd.
7. Copy to Reporters as per standard list of CAT, Hyd.
8. One spare copy.

Rsm/-

12/12/92

Case No.	OA 738/92
	3-12-92
	21-12-92
	<i>[Signature]</i>

registered here as T.A.925/86. This T.A. was finally adjudicated on 3.8.1989 by this Bench. Thereafter another person Sri. KVS Prasad filed OA 882/90, which was adjudicated by this Bench on 27.8.91. The action of the respondents in emphasising on the post held by the transferees at the time of option was declared illegal in the judgement dated 3.8.89 in T.A.925/86. The persons who had reconciled to their posting to Guntupally Workshop based on the position held by them at the time of option acquired a right in the light of the judgement dt.3.8.89. One such person Sri. KVS Prasad asserted his right by approaching us in time in OA 882/90. The question of jurisdiction would not therefore arise since a final direction on the issue was available on/in August, 1989.

5. The next question to be discussed is limitation. The applicant in the O.A. before us (Sri. KM Phillips) is no doubt placed similar to Sri. K.V.S. Prasad, the applicant in OA.882/90, which was decided on 27.8.1992. The main difference is that Sri. Prasad approached this Tribunal in time, unlike Sri. KM.Phillips, the applicant herein who filed this O.A. only on 18.8.1992. The question to be seen is whether this violates limitation. Like in the case of KVS Prasad in OA 882/90, the cause of action for Sri. K.M.Phillips can also be taken to have arisen on 3.8.1989, when this Bench decided T.A.No.925/86. That being so, Sri. KM.Phillips is well beyond the time limit in approaching us. The applicant was placed in a lower post when he was taken at Guntupally. Even though he had reconciled to this, he could have approached us in time after the judgement dated 3.8.89 in T.A.No.925/86 like Sri. K.V.S. Prasad of OA 882/90. Even assuming that he had no knowledge of the judgement in TA 925/86 and O.A. 882/90, he should have been alert when his seniority was adversely affected when the respondents reported revised the seniority list in the light of the judgement dated 3.8.1989 in T.A. 925/86. The applicant should have approached us at least then.

6. The learned counsel for the applicant had cited several judgements in support of his argument that the benefits of judgement should be available to all similarly placed persons whether or not they were parties to such judgements. He could not however show us any decision that those left out, could approach the courts at any time. If they are aggrieved, they should approach the courts in good time. We have to keep in mind the importance of limitation stressed sufficiently in the