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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 751/92.

Dt. of Decision : 25.7.94.

Mr. P. George

.. Applicant.

Vs

1. Union of India rep. by
General Manager, SCRLy,
Rail Nilayam, Sec'bad.
2. Divisional Railway Manager,
SCRLy, Vijayawada,
Krishna Dist.
3. Sr.Divisional Personnel Officer,
SCRLy, Vijayawada,
Krishna Dist.

.. Respondents.

Counsel for the Applicant : Mr. G. Ramachandra Rao

Counsel for the Respondents: Mr. N.V. Ramana, Addl. CGSE.

CORAM:

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

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

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Dated 25.7.1994.

OA 751/92

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

Heard Shri G. Ramachandra Rao, learned counsel for the applicant and also Shri N.V. Ramana, learned standing counsel for the Respondents.

2. The applicant while working as Train Lighting Fitter Gr. I was removed from service by order dated 30-3-76 after enquiry and the appeal thereon was rejected on 10-12-76. The same was challenged in writ petition No. 4734/79 on the file of A.P. High Court and the same was registered as TA 10/86 on being transferred to this Tribunal. It was allowed by order dated 23-10-86 and the order of removal was set aside. The SLP filed by the Respondents was dismissed.

3. The applicant attained the age of superannuation on 30-4-84. This OA was filed praying for a direction to promote him as Electrical Chargeman with effect from 19-11-83, the date on which his juniors were promoted to the said post on ad hoc basis and for consequential benefits.

4. It may be noted that even TA 10/86 came up for consideration long after the applicant attained the age of superannuation. It is submitted for the applicant that he filed this OA after he came to know about the ad hoc promotion to his juniors to the post of Electrical Chargeman with effect from 19-11-83. The cause of action has arisen during the pendency of the Writ petition No.

4734/79, ^{regularly} transferred as TA 10/86, ^{on transfer} Normally one

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would have prayed for amendment of the prayer
~~to the said proceedings~~ when a claim arises
during the pendency of the proceedings.

But it is stated for the applicant that the
applicant was not aware of the ~~said~~ promotions
by the time the TA 10/86 has come up for
consideration and hence he could not prefer
the claim. As the applicant was not in service
even from 1976, ^{there is nothing unusual when it was stated} he was not aware of the ad hoc
promotion of his juniors in 1976.

4. The learned counsel for the Respondents
contended that as the applicant has not claimed
the consequential benefits in the Writ Petition
No. 4374/79 transferred as TA 10/86, he is not
now entitled to claim this relief. The applicant
might not have felt that it will take long time
for disposal of this Writ petition or there would
be promotions even before the disposal of the
writ petition. As already observed it is explained
that he could not come up with amendment petition
as he was not aware of such promotions before
the disposal of the TA 10/86.

5. When the order of removal is set aside,
his case has to be considered for promotion
and if he was reinstated on disposal of the
TA, a direction would have been given to refer
the matter to review D.P.C. But as this is a
case where the applicant attained the age of
superannuation even before the disposal of the
TA 10/86, and ^{as} it is a mere case of claiming
ad hoc promotion from a date his juniors were
promoted and even as that ad hoc promotion
would be for a few months, we feel that it is
~~where ad hoc promotion can be ordered without referring~~
~~not a fit case to refer~~ the matter to Review D.P.C.

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4.. In the result, the applicant has to be given notional ad-hoc promotion to the post of Electrical Chargeman Gr. B with effect from 19-11-83 and the pay of the applicant as on 19-11-83 has to be fixed in the post of Electrical Chargeman Gr. B for the purpose of fixation of pension and gratuity. The difference in gratuity, leave encashment if any and commutation if any on the basis of re-fixation as per this order have to be given. The difference in pension has to be paid from 1-9-91 as this OA was filed on 28-8-92. The OA is ordered accordingly with no costs.


(R. RANGARAJAN)
Member (Admn.)


(V. NEELADRI RAO)
Vice-Chairman

Dated the 25-7-94
Open court dictation

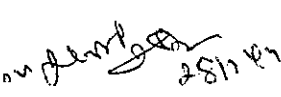
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Dy. Registrar (Judl)

Copy to:

1. ~~Union~~ General Manager, South Central Railways, Rail Nilayam, Secunderabad.
2. Divisional Railway Manager, South Central Railways, Vijayawada, Krishna District.
3. Senior Divisional Personnel Officer, South Central Railways, Vijayawada, Krishna District.
4. ~~Mr.~~ One copy to Mr. G. Ramachandra Rao, Advocate, CAT, Hyd.
5. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare.

kku.


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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 (AD-EN)

DATE: 28-7-1994

~~ORDER~~ JUDGMENT

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

in

O.A.No. 75/92

(T.A.No.)

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

Central Administrative Tribunal
DESPATCH

1 AUG 1994

HYDERABAD BENCH