

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL-APPLICATION-NO.1135-OF-1993

DATE-OF-ORDER: 20<sup>th</sup> March, 1997

BETWEEN:

SHAIK ALLAH BAKSH

AND



APPLICANT

1. The Chief Personnel Officer,  
South Central Railway,  
Secunderabad 500371,
2. The Divisional Railway Manager,  
S.C.Railway, Vijayawada-1.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.G.V.SUBBA RAO

COUNSEL FOR THE RESPONDENTS: Mr.N.R.DEVARAJ, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

ORDER

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents. The applicant was present in the court.

2. The facts which are not <sup>in</sup> under dispute are as follows:-

The applicant in this OA applied for the post of Trainee Guard in response to the Employment Notice No.4/77-

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from claiming the post of Guard now. The respondents further state that the reply issued by the CPO by letter No.P(RC)563/RRB/SC/Optg. dated 20.10.92 was due to an error. In supersession of that letter, he was informed by the CPO that his posting as Guard could not be considered since not only was he promoted to the grade of Rs.425-640 with effect from 24.7.85 but also he represented his case after a lapse of 12 years and hence his case cannot be considered (Annexure 10 to the reply).

6. It is an admitted fact that the applicant is a Graduate even at the time of appearing for the selection to the post of Trainee Guard in response to the Employment Notice No.4/77-78. It is also a fact that a decision was arrived at in the PNM meeting held with SCR Employees Sangh in the year 1981 that those of the candidates selected for the post of Trainee Guard who were offered the posts of Signaller for want of vacancies in the category of Guard <sup>would</sup> ~~will~~ be posted to the post of Guard if they volunteer for the same. The applicant submits that though he had volunteered for Signaller post, he requested to post him as Guard only as and when vacancy arises through his representations, and the last representation was dated 30.6.92. But his requests were turned down.

7. When the respondents considered the cases of those Signallers who were selected for the posts of Guard and posted as Silgnallers, the case of the applicant should have also been considered along with the others if he had applied for the same. The applicant has quoted the name of Shri Vinaya Kumar who had been reappointed as Guard in view

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the employees who <sup>were</sup>~~are~~ Graduates at that time and who <sup>were</sup>~~are~~ willing to join as Trainee Guard and <sup>were</sup>~~was~~ posted as Guard.

3. The applicant was selected for the post of ASM against 10% departmental quota for Signallers and sent for training on 15.12.81. After completion of his promotional course, he was promoted as ASM in the scale of pay of Rs.330-560 and posted at Gudur and he took independent charge as ASM at Gudur on 2.9.82. He was further promoted to the next higher grade of ASM in the scale of pay of Rs.425-640 with effect from 24.7.85.

4. This OA is filed praying for direction to the respondents to absorb him as Guard as he was duly selected for the said post and not as Signaller/ASM and treat him as a Guard for all purposes from the date the other selected and empanelled candidates were absorbed as Guards with all consequential benefits such as promotion, seniority, arrears etc.

5. The respondents contend that he was trained for the post of Signaller and ~~as~~ he accepted the post of Signaller. Hence, he cannot ask for changing the cadre especially after undergoing the training for the job. Offering of Signaller's post is not a stop gap arrangement. Even though it was agreed to take such persons as Guard as per PNM meeting, held more than 9 years ago, the applicant did not avail the opportunity. Instead, he worked as Signaller and volunteered for the post of ASM on 24.5.81 and got selected. He had progressed further in the cadre of ASM to the grade of Rs.425-640. Hence he is estopped

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Vijayawada Division or in the next available vacancy. His seniority in the category of Guard in that grade has to be determined as if he entered the cadre on 9.9.93 i.e, the date of filing of the OA. His pay should be fixed in the category of Guard on his posting to that cadre in accordance with law.

11. The OA is ordered accordingly. No order as to costs.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY  
*[Signature]*  
न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायपीठ  
HYDERABAD BENCH

केस नम्बर	CASE NUMBER	MA-1135793
निर्णय का तारीख	Date of Judgment	20/3/97
प्रति तैयार किया गया दिन	Copy Made Ready on	7/4/97
अनुभाग अधिकारी (न्य. नि.) Section Officer (J)		

of the agreement reached in the PNM meeting. It is not clear why such consideration should <sup>have</sup> not been shown to the applicant also. Just because he had progressed in the cadre of ASM, that would not stand in his way of going to the cadre of Guard if he agrees to accept the post of Guard in the lowest category and progress thereafter. As indicated earlier, the first representation he made is only on 30.6.92. ~~as~~ He had not enclosed earlier representations. Hence it has to be held that in case he was posted as Guard he should be eligible to get seniority in the Guard category only from the date he filed this OA i.e, with effect from 9.9.93 when the OA was registered.

8. The CPO had rejected his case erroneously by his letter dated 21.8.79. But he corrected the reasoning given to reject his request by his letter dated 20.10.1992 maintaining his earlier stand which in our opinion is not a good gesture.

9. We have spoken to the applicant who was present in the court. We informed him that by going to the cadre of Guard his date of seniority in that cadre <sup>would</sup> ~~will~~ take effect from the date of filing of the OA and that will be detriment to his ~~interest~~ interest as he will not only lose monetarily but it will also involve reversion to a lower grade. Inspite of the best efforts to convince him, the applicant, insisted that he may be posted as Guard.

10. In view of the foregoing, the following direction is given:-

The applicant should be posted to the cadre of Guard in the lowest grade if a vacancy exists now in


