

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

O.A.NO. 91/93.

Date or Decision: 27-3-95.

Between:

R.Lakshmana Rao.

.. Applicant.

and

1. Union of India rep. by General Manager,
South Central Railway, Railnilayam,
Secunderabad.
2. Divisional Railway Manager,
South Central Railway,
Vijayawada, Krishna Dist.
3. Divisional Electrical Engineer(Maintenance),
S.C.Railway, Vijayawada.

.. Respondents.

For the Applicant: Mr.G.Ramachandra Rao, Advocate

For the Respondents: Mr.N.V.Ramana, SC for Rlys.

CORAM:

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

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

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O.A.No.91/93.

Date: 21/8/55

J U D G M E N T

I as per Hon'ble Sri R.Rangarajan, Member(Administrative)

Heard Sri G.Ramachandra Rao, learned counsel for the applicant and Sri N.V.Ramana, learned Standing Counsel for the respondents.

2. The applicant herein joined as Khalasi in the Electrical Department (General Service) of South Central Railway. He was kept under suspension from 1.7.74 to 21.11.76 for his involvement in a theft case and was finally removed from service with effect from 30.12.1976 after holding departmental enquiry on the charge of theft. Aggrieved by the removal order he had filed Writ Petition bearing W.P.No.6392/79 in the High Court of A.P. which was transferred to this Tribunal as TA No.23/86. The said TA was disposed of by judgment dt. 23.10.1986 quashing the removal order from service. Review Petition bearing R.P.No.2/88 filed by the respondents in that TA was also rejected. SLP bearing No.3259/88 filed in the Supreme Court was also dismissed.

3. In view of the above development, the applicant was reinstated into service from 30.1.1991 treating the period from the date of removal till reinstatement as duty as Khalasi in the scale of Rs.750-940(RSRP). The period of suspension from 1.7.1974 to 21.11.76 was also treated as on duty and he was paid an amount of Rs.1,43,568/- as consequential arrears. In terms of his option, he came over to Train Lighting Wing of the cadre and he was subjected to Trade Test for promotion to the post of Khalasi Helper.

...3/-

After passing the time test, he was promoted as Khailai
helped on Train Lightin... in the scale of Rs. 300-1-500
under order No. 242/1992 (Vol. 14 (C-2)) dt. 7.2.1992
(Annexure-7 of CA, Annexure-8-III of Reply). It is stated

for the applicant that he gave representation to the
respondents on 21.3.91 and 2.4.1991 claiming promotion to
the next higher grade of skilled fitters in the scale
of Rs. 1200-1800 and above on par with his junior and

also to promote him automatically to the next higher post
without holding any trade test. The representation was not
eliciting any response. Hence, he has filed this OA on 1.2.1992
praying for a declaration that the applicant is deemed to

have been promoted to the next higher post of Khailai fitter
and Train Lightin... fitter skilled grade from the date when
his juniors are promoted to the said post with all con-
sequential and attendant benefits including arrears of pay
after setting aside the order dt. 7.2.1992 in so far as
it is against the applicant in denying the arrears of pay.

4. The pleadings in this OA and the relief sought
for is similar to the pleadings and relief sought for in
OA No. 662/92 dt. 24.2.1992 which was decided on award as
Vs. Union of India and 2 others. The applicant herein was
also removed from service in a departmental enquiry on the

charge of theft as was the case of the applicant in OA
referred to above. As the applicant herein is placed in a
similar situation as the applicant in OA 662/92 we see no
reason to differ from the judgment given in the above case.

We follow the same directions in this OA also as in the
other case.

After passing the trade test, he was promoted as Khalasi Helper on Train Lighting Wing on the scale of Rs.800-1150(RSRP) under order No.B/P.535/II/2/Vol.14(Co-or) dt. 7.2.1992 (Annexure-7 of OA, Annexure-R-III of Reply). It is stated for the applicant that he gave representation to the respondents on 21.3.91 and 2.4.1991 claiming promotion to the next higher grade of Skilled Fitters in the scale of Rs.1200-1800 and above on par with his juniors and also to promote him automatically to the next higher post without holding any trade test. The representation did not elicit any response. Hence, he has filed this OA on 1.2.1993 praying for a declaration that the applicant is deemed to have been promoted to the next higher post of Khalasi Helper and Train Lighting Fitter Skilled grade from the date when his juniors are promoted to the said post with all consequential and attendant benefits including arrears of pay after setting aside the order dt. 7.2.1992 in so far as it is against the applicant in denying the arrears of pay.

4. ^{over} The pleadings in this OA and the relief sought for ~~is~~ similar to the pleadings and relief sought for in OA No.662/92 which was decided on 24.2.1995 (Koteswara Rao Vs. Union of India and 2 ors.). The applicant herein was also removed from service in a departmental enquiry on the charge of theft as was the case of the applicant in OA referred to above. As the applicant herein is placed in a similar situation as the applicant in OA 662/92 we see no reason to differ from the judgment given in the above said OA. We follow the same directions in this OA also as in the other case.

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5. The learned counsel for the respondents submitted that the applicant herein is not senior to S/Sri Nagabhushanam and Sri D.Subba Rao as claimed by the applicant. The seniority position of S/Sri Nagabhushanam and Subba Rao is 417 and 418 respectively and that of the applicant is 419 and hence the applicant is junior to the above said two employees. However, he is senior to one Sri A.Bhaktavatsala Rao who stands at Sl.No.421 and is promoted in the Train Lighting Wing. Hence, he will be given proforma promotion with respect to Sri A.Bhaktavatsala Rao who is his immediate junior. In the reply affidavit filed by the applicant, though he states that Sri Nagabhushanam and Sri D.Subba Rao are his batch-mates and both of them were appointed in the initial grades on the same, he did not specifically controvert the averments of the respondents that the above two employees are senior to him. However, he concedes that he may be promoted to the next higher post on par with Sri A.Bhaktavatsala Rao. Hence, it has to be held that Sri A.Bhaktavatsala Rao is his immediate junior. ^{and} The applicant has to be given promotion on par with Sri A.Bhaktavatsala Rao only who is admittedly his immediate junior.

6. It was held in OA 662/92 ~~that~~ in case of the applicant therein that the period of two years in the lower grade before promotion to the higher grade should not be insisted upon for reasons stated therein. This observation will also hold good in the case of the applicant herein also.

...5/-



In view of the fact that the above-mentioned conditions are:-

The applicant should be protected by the law.

At present, the applicant is not protected by the law.

When the immediate interest of A. Bhaskar is concerned

provided he is not the respective interest of the

for the above person in the first attempt itself.

In case the applicant is not qualified him in the

the first attempt in the first attempt is entitled to

only for the first attempt when he passes the trade test

to the first attempt. If he is not qualified to pass

passing the trade test in the first attempt itself.

is entitled for national election of his own free

date when his immediate interest is concerned to the

trades. He is entitled for any benefit due to him

protection from 1.1.1992 i.e. the year prior to the

filling of this OA (this is filed on 1.1.1992).

8. The OA is ordered accordingly. No costs.

(V. V. Mohan) (V. V. Mohan)
Vice Chairman

(V. V. Mohan) (V. V. Mohan)
Member (A. A.)

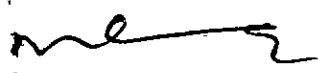
Dated: 1st March 1992.

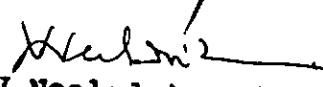
GRN.

7. In view of what is stated above, the following directions are given:-

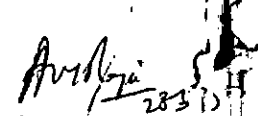
The applicant should be promoted to the Train Lighting Fitter Grade-III/Grade-II/and Grade-I from the date when his immediate junior Sri A.Bhaktavatsala Rao was promoted provided he passes the respective trade test for the above grades in the first attempt itself. In case the applicant fails to qualify himself in the trade test in the first attempt he is entitled for promotion only from the date when he passes the trade test subsequent to the first attempt. If he is promoted to higher grade by passing the trade test in the first attempt itself, he is entitled for notional fixation of his pay from the date when his immediate junior was promoted to the higher grades. He is entitled for monetary benefits due to such promotion from 1.2.1992 i.e. one year prior to the date of filing of this OA (this OA was filed on 1.2.1993).

8. The OA is ordered accordingly. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated 27th March, 1995.


Deputy Registrar(J)CC

Grh.

To

1. The General Manager, S.C.Rly, Union of India, Railwalayam, Secunderabad.
2. The Divisional Railway Manager, S.C.Rly, Vijayawada, Krishna Dist.
3. The Divisional Electrical Engineer (Maintenance) S.C.Rly, Vijayawada.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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COMPARED BY

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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 (ADMN)

DATED - 27-3 1995.

ORDER/JUDGMENT:

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

O. A. No. ⁱⁿ 91/93
T. A. No. (W. P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No. order as to costs.

No spare copy

