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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

M.A.704/97 in RA.Sr.2291/97 in
O.A.1353/3 & RA.Sr.2291/97 in
O.A.1353/93. - - - - -

Dt. of Decision : 28-08-98.

M.Venkateswarlu

..Applicant.

Vs

1. The Divl. Rly. Manager,
SC Rly, Vijayawada.
2. The Divl. Rly. Manager,
SC Rly, Hyderabad (MG),
Division, Sec'bad.
3. The General Manager,
SC Rly, Rail Nilayam,
Sec'bad.

..Respondents.

Counsel for the applicant : Mr.G.V.Subba Rao
----- for the respondents : Mr.C.V.Malla Reddy, SC for Rlys.

CORAM:-

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

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

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ORDER

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

Heard Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.Gurupadam for Mr.C.V.Malla Reddy, learned counsel for the respondents.

2. This OA for condoning the delay of 6 months and 11 days in filing the RA.

3. The applicant in this OA has filed this RA. The OA was filed praying for a direction for regularising the period of suspension from 19-5-88 to 2-7-88 with all consequential benefits and to promote the applicant to the next post of Guard-C with effect from the date on which his immediate junior was promoted and for a further direction to pay consequential benefits thereon with interest at 18% p.a.

4. The main prayer in this RA is that the applicant should be promoted to the higher grade on par with his junior and if that is accepted ~~succeded~~ ^{should} the other reliefs ~~will~~ ^{was} follow: The applicant ~~has~~ to attend the suitability test on 10-5-85 for the post of Guard. The Station Incharge informed by the letter No.B/P/282/IV/I dated 8-5-85 to relieve the applicant for the test. It is stated that the applicant did not attend the test on 10-5-85. Even on 11-5-85 though it is stated he was alerted he did not attend. Hence he lost the chances for promotion.

5. In the RA the applicant submits that he was not relieved by the Station Incharge to attend the test either on 10-5-85 or 11-5-85. If so, we asked the learned counsel for the applicant to produce any representation submitted to the Station Incharge for his failure to relieve him in time to attend the test. The learned counsel for the applicant in the RA submits that it is for the respondents to prove so and not the applicant. The affected party is the applicant. Hence, he should have ~~pretested~~ ^{published} his status by

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filling a representation in time so that his case can be viewed better in future if necessary. This incident had happened in 1985. At this juncture it will be difficult for anybody to visualise what could have happened at that time and decide the issue on that basis. Had the applicant submitted a representation immediately either earlier to 10-5-85 or after 10-5-85 that would have proved his contention. Unfortunately, nothing is available. We do not feel incorrect that the respondents ^{only} have only to prove the fact ~~that~~ and not the applicant. Hence, in our opinion, there is no error in the judgement.

6. The learned counsel for the applicant surveys the issue of the charge sheet etc., after he was ~~susp~~ suspended on 19-5-85. He also submits that ~~there were~~ some others who were suspended along with him were given better treatment by promoting them on the basis of the OA filed in this Tribunal. If so, it is for the applicant to take such action as necessary to establish his case as was done by ~~others~~.

7. In view of what is stated above, we do not see any ~~any~~ error in the judgement. Hence, the RA.Sr. is liable only to be rejected.

8. As we find no merits in the RA no useful purpose will be served if this MA is allowed. Hence, the MA is dismissed and the RA.Sr. stands rejected. No costs.

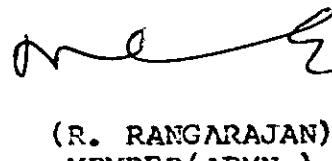


(B.S.JAI PARAMESHWAR)
MEMBER(JUDL.)

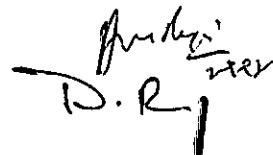
28/8/98

Dated : The 28th August, 1998.
(Dictated in the OpenCourt)

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(R. RANGARAJAN)
MEMBER(ADMN.)



D.R.