

(27)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
HYDERABAD.

O.A. 31/93.

Between:

Y.Narasimha Rao. K .. Applicant.

and

Sr.Divisional Personnel Officer, .. Respondents.
South Central Railway,
Vijayawada and another.

Reply Statement
COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS.

I, K.B.T.Naik, S/o Takrya Naik, aged about 43 years, working as Senior Divisional Personnel Officer, South Central Railway, Vijayawada, do hereby solemnly affirm and state as follows:

1. I am the respondent in the O.A. and I am well acquainted with the facts of the case. All the material averments in the O.A. which are not specifically admitted here under are denied. The applicant is put to strict proof of all such averments which are deemed to have been denied.

2. The brief facts of the case are furnished as under:

(A) The applicant was originally appointed as Casual Labour in Repacking Shed/BZA and was granted temporary status with effect from 29.12.81. He was screened for regular appointment and was posted as T.P.Hamal/BZA vide Order No.B/P.269/1/1/Vol.VI dated 27-04-88. He joined the regular service on 1.7.88.

(B) The applicant applied for the Post of Ticket Collector under departmental quota in response to the notification issued vide B/P.531/TC/Vol.V dated 9.6.92. The applicant appeared for written test conducted on 10.10.92 and was qualified for Viva-voce along with 41 others. The Viva-voce was held on 06-11-92. The applicant's name arranged seniority wise figured at S.No.40. Only the senior most 28 employees were selected in the viva-voce and they were empanelled vide B/P.531/1/TC/Vol.V dated 18-11-92.

ATTESTOR

[Signature]
Assistant Personnel Officer G&O
S.O.R.Y. VIJAYAWADA

वरिष्ठ महाल कार्यालय • अधिकारी
ह. म. रेल्वे, विजयवाडा
Sr. DIVISIONAL PERSONNEL OFFICER
S. C. RLY VIJAYAWADA

Deponent

3. The applicant's case is that his seniority ought to have been reckoned from the date of his attaining temporary status. It is submitted that the seniority of all the candidates was reckoned from the dates of their attaining regular status. The applicant entered into regular service only on 1.7.88 and hence the applicant's contentions at para 11 of the O.A. that 3 of his juniors were selected as Ticket Collectors is not tenable since admittedly all the three mentioned by him entered regular service prior to him during 1982 and 1984.

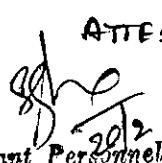
4. The applicant's contention that his seniority shall be computed from the date of his attaining temporary status is not tenable. Under provision 2511(a) of Indian Railway Establishment Manual, Vol.II as amended on 7.5.1983, the Seniority is required to be reckoned from the date of regular entry into service. The only exception being given is in the case of seniority of individual employees which has already been determined in any other manner in pursuance of Judicial decisions or otherwise.

5. In a similar case, the Supreme Court of India in V.Kameswari Vs. UOI and Others, reported vide JT.1993 (1) SC 108 while upholding the amended provisions, held at Para 9 of the Judgement.

"It is not the case of respondent No.3 that his seniority on the Post of Khalasi or lascar had been determined in pursuance of a judicial decision or otherwise prior to May, 7, 1983. The Seniority of respondent No.3 has therefore, to be determined in accordance with the provisions contained in para 2511(a) as amended on May 7, 1983."

6. It is clear from the above judgement that unless the Seniority of the applicant was determined in any other manner either in pursuance of Judicial decisions or otherwise prior to May 7, 1983, his Seniority is required to be reckoned from the date of his regular entry into service.

ATTESTED


Assistant Personnel Officer Gdo
S.C.R v. VIJAYAWADA


..3..
विभाग सचिव वापिक अधिकारी
द. म. रेडी, किल्यवाडा
Sr. DIVISIONAL PERSONNEL OFFICER
S. C. RLY VIJAYAWADA
Deponent

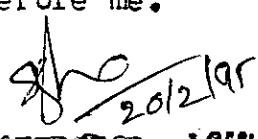
7. It is submitted that the seniority of the Group 'D' employees of the commercial Department to which this applicant belongs, and the seniority of the applicant herein, was reckoned from the date of regular appointment and was never determined in any other manner. The applicant's seniority was reckoned from 1.7.88 on which date he entered regular appointment as T.P. Hamal. Hence the applicant's contention that his seniority has to be determined reckoning from the date of grant of temporary status is violative of provisions of para 2511 (a) of IREM Vol.II and is also violative of the Supreme Court judgement in V.Kameswari Vs., UOI and hence not tenable.

8. In view of the above submissions, it is clear that the applicant has not made out any case. Hence, it is prayed that the Honourable Tribunal may be pleased to dismiss the O.A.


विजयवाडा मिक्रो अधिकारी
प.र. रेन्डे, विजयवाडा
Sr. DIVISIONAL PERSONNEL OFFICER
S. C. RLY VIJAYAWADA

Solemnly affirmed and sworn on this
Tuesday day of Feb. 1995
at Vijayawada.

Before me.


20/2/95
Assistant Personnel Officer G&O
S.O.Rly, VIJAYAWADA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A.No. 31 of 1993

Between:

Y.Narasimha Rao ..Applicant

And

Sr.Divisional Personnel
Officer, S.C.Rly. ..Respondents

Reply statement -
~~COUNTER AFFIDAVIT FILED ON BEHALF~~
OF THE RESPONDENTS.

Filed



Filed by:

G.S.Sanghi

Advocate.

copy be filed
on
27/3/1995