

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

C.A. 355/93.

Dt. of Decision : 08-01-97.

D. Audisesha Rao

.. Applicant.

Vs

1. The Dy. Financial Adviser and  
Chief Accounts Officer,  
Railway Electrification,  
Vijayawada.
2. The Sr. Divl. Accounts Officer,  
SC Rly, Vijayawada.



.. Respondents.

Counsel for the applicant : Mr. G.V. Subba Rao

Counsel for the respondents : Mr. V. Rajeswara Rao for  
Mr. N.V. Ramana, Addl. CGSC.

CORAM:

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

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

*R*

have been promoted on par with his junior who were promoted during the intervening period.

6. The issue of notice is only a formality when the rule is clear. Even if a notice was issued the position of the applicant <sup>Could not have been</sup> ~~cannot be~~ altered. Further this plea should have been taken initially itself, in which case the application could have been disposed of at the admission stage itself by directing the respondents to issue notice and then take further action on that basis. <sup>Hence</sup> However, even if it is mentioned in the OA, at this late stage, we do not consider a fit contention to give any ~~XXXXXXXXXX~~ other direction. Hence, this contention is rejected. When the applicant submits that he lost the promotion during the intervening period from 29-2-88 to 15-4-93 as he was not called for the selection to the post of Junior Accounts Assistant during that period the submission should be considered as very relevant to this issue. He should now be considered for promotion, if any of his junior <sup>is</sup> promoted during that ~~XXXXXXXXXX~~ intervening period and on that basis of the reconsideration if he is found <sup>S</sup> suitable for promotion to the post of Junior Accounts Assistant against the 20% quota, he should be promoted <sup>in</sup> ~~that~~ cadre on par with his junior ~~xxx~~ with all consequential benefits. The respondents have already stated that the excess amount for the period when he acted <sup>on</sup> a higher grade is waived. In view of it no further direction is necessary in this connection.

7. In the result, the following direction is given:-

The OA is dismissed. But the applicant should be considered for promotion if any of his junior is promoted to the post of Junior Accounts Assistant during the intervening period from 29-2-88 to 15-4-93 and in ~~xx~~ case he was found

for SC and ST against the remaining 20% quota earmarked for promotion from the lower grade of Accounts Clerk Gr-II. The respondents by an erroneous interpretation had promoted the applicant to the post of Junior Accounts Assistant <sup>by</sup> holding that the reservation is applicable for promotion from Accounts Clerk to the Junior Accounts <sup>Assistant</sup> ~~Clerk~~. As the Board has brought to the notice that the above is incorrect and 20% quota vacancy earmarked promotion to the Clerk Gr-I (Junior Accounts Assistant) in the Accounts department, there is no reservation for SC/ST vide Railway Board letter No.90-E(SCT) I/25/7 dated 25-05-90 (Annexure R-3).

5. In view of the above clarification the applicant who was erroneously promoted on 29-2-88 as Junior Accounts Assistant against the roster point No.36 was demoted to the post of Accounts Clerk in the scale of Rs.950-1500/-. It is further stated by the respondents that the over payment made because of the ~~error~~ erroneous promotion has been waived by the competent authority taking the view that the applicant should not suffer due to recovery of this huge amount. We see force in the contention of the respondents. Hence, we do not think that the reversion is irregular. However, the learned counsel for the applicant submitted that no notice was given before his reversion. It is further submitted by the applicant's counsel <sup>that</sup> during the period <sup>from</sup> 29-2-88, the date on which he was promoted as Junior Accounts Assistant till the date of his reversion on 15-4-93, there were number of promotions made to the post of Junior Accounts Assistant by the selection. As the applicant was in a higher grade during the period he was not called for the selection. Because of this reversion the applicant lost promotion in the usual against 20% quota along with the juniors. Hence, he should be compensated by promoting him by conducting a review selection and on that basis if he qualified in that selection he should be deemed to

suitable he should be promoted on par with his junior with all consequential benefits such as fixation of pay on par with his junior and payment of arrears.

8. The CA is ordered accordingly. No costs.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

*[Signature]*  
न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायपीठ  
HYDERABAD BENCH

केस संख्या	M-355/93
CASE NUMBER	M-355/93
नियत का तारीख	8/1/
Date of Judgement	8/1/
प्रति तय्यार किया गया दिन	27/1/97
Copy Made Ready on	27/1/97
अनुरोध अधिकारी (न्य. वि. वि.)	