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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.440/93

dated of decision : 13-8-93

Between

N. Ananta Rao

: Applicant

and

1. The General Manager
South Central Railway
Secunderabad

2. The Chief Personnel Officer
South Central Railway
Secunderabad

3. The Divisional Railway Manager(P)
South Central Railway
Vijayawada

: Respondents

Counsel for the applicant

: Ramakrishna Rao, S.
Advocate

Counsel for the respondents

: D. Francis Paul, SC for
Railways

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. P.T. Thiruvengadam, Member (Admn.))

Heard Sri S. Ramakrishna Rao, learned counsel for the applicant and Sri Francis D. Paul, Standing counsel for Railways.

2. The applicant was working as Head Signaller in Vijayawada in the pay scale of Rs.1400-2300 w.e.f.1-1-1984. While working in this capacity, he was declared medically declassified for the duties of the post of Head Signaller and was absorbed as Senior Clerk vide office order NO.PCE/45/89 dated 11-1-1989.

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issued by DRM's office, Vijayawada. As per provisions in para 1314 of Indian Railway Establishment Manual, his ^{in the category of Senior Clerk} seniority was reckoned by taking into consideration the service he had put in as Senior Signaller and Head Signaller.

3. On 11-7-1989 when vacancy ^{ies} of Head Clerks arose, a ^{clerk} number of Senior Signallers junior to the applicant were ~~promoted~~. The applicant was not considered for promotion since he had not completed two years of service as senior Clerk, which period is the minimum period laid down for promotion from lower grade to the higher grade. Railway Ministry also had clarified that wherever ^a his junior becomes eligible for promotion for relevant next higher grade, his senior would also be eligible for the said promotion even though the senior might not have put in a total of two years service in that minimum lower grade.

4. Two contentions has been raised by the respondents viz. i) Clarification to the Railways by the Railway ^{only} Ministry was given ⁱⁿ the year 1992 to the effect that the qualifying service of two years is relaxable in case of a senior when a junior becomes eligible. ii) Secondly, the OA is barred by limitation since it is filed more than one year from the date of cause of action.

5. When once clarification is given, it is applicable even with regard to cases which had arisen prior to the date of clarification. Hence, the first contention is not tenable and the applicant's case should have been considered for promotion at the time his immediate eligible junior was considered.

6. As regards the bar on limitation the learned counsel for the applicant pointed out that as per rules even at the

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time of medical decategorisation, the applicant was eligible to be posted as Head Clerk straightaway. This did not happen perhaps because there was no vacancy of Head Clerk at that time. The argument that in case of the applicant a specified minimum period of two years service as Senior Clerk is not warranted for discharge of duties as Head Clerk. It is also noticed that the applicant had retired from service on 31-7-1990 and hence the direction for promotion to the post of Head Clerk will not affect the interests of any other employees. As the applicant is already retired from service, we felt that it is not a case where the applicant can be directed to file a separate application praying for condoning delay. As the error on the part of the respondents in not considering the case of the applicant for promotion is so obvious and glaring, it is a fit case for condoning the delay.

7. In view of the above, the applicant had to be given given promotion from the date his junior was promoted as Head Clerk with all consequential benefits including monetary benefits upto the date of retirement and after retirement also.

8. Time for implementation of the order is three months from the date of receipt of this order.

9. OA is ordered accordingly at the admission stage.

No costs.

P.T. Thiruvengadam

(P.T. Thiruvengadam)
Member (Admn.)

V. Neeladri Rao

Vice Chairman

Dated : August 13, 93
Dictated in the Open Court

8/8/93
Dy. Registrar (J)

O.A.440/93

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 13/8/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

in

O.A.No.

440/93

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

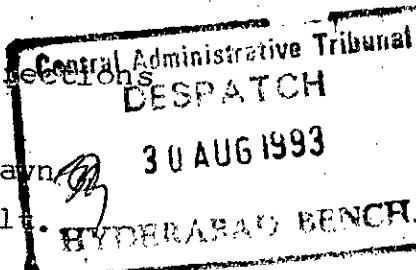
Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.



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