

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. 480/93

Date of Decision: 18.11.1996

BETWEEN:

E. Subba Rao ~~and another~~ .. Applicant
R. Mansoor Hussain ..

AND

1. South Central Railway,
Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Chief Electrical Engineer,
South Central Railway,
Rail Nilayam, Secunderabad.

.. Respondents



Counsel for the Applicant: Shri P. Krishna Reddy

Counsel for the Respondents: Shri V. Bhimanna

CORAM:

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

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

JUDGEMENT

(Oral Order per Hon'ble Shri R. Rangarajan, Member (ADMN.)

Heard Smt. Sharada for Shri Krishna Reddy for applicant and Shri Bhimanna for respondents.

There are 2 applicants in this OA. They are aspirants for the post of OS Gr.I in Electrical Branch, PRS, Electrical Loco Shed. The facts of their cases are as follows:-

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The applicant No.1 joined as a Junior Clerk in the year 1963. He was promoted as Sr. Clerk in 1970. He was promoted as Head Clerk against an upgradaded post in 1980. Thereafter he was promoted as Chief Clerk/O.S. Gr.II in the scale of Rs.1600-2660 with effect from 2.4.86. He was regularised in that Grade from 1.6.90. He is in the zone of consideration for promotion to the post of OS Gr.I on the basis of Seniority-cum-Suitability. The applicant was given an adverse confidential report for the year 1991-92. It is stated that he has not filed any representation in this connection to the respondents. However, the applicant in para-6(e) of the affidavit submits that he submitted a representation against adverse remarks awarded to him in the year 1991-92 but the date of submission of the representation is not indicated. Even presuming that he had filed a representation, he should have approached the tribunal within the limitation period against the adverse remarks if he did not receive any satisfactory reply to his representation. But the applicant evidently did not do that. Hence the question of consideration of the representation at this late hour does not arise.

It is also stated that the applicant has got average report earlier and later also. But those adverse remarks if any were not challenged by him.

The first applicant was considered for promotion to the post of OS Gr.I in the year 91-92 and he was not found suitable. Subsequently also he was considered for promotion against the restructured post of OS Gr.I with effect from 1.3.1993. But he was not considered fit for promotion on the basis of the records.

The second applicant was appointed as Junior Clerk

in the Electrical Department, Secunderabad on the BG division.

He belongs to ST community. He was promoted as Sr. Clerk on 2.3.86. He was promoted to the post of Head Clerk/O.S. Gr.II on trial basis and was given inservice training with effect from 29.6.70. As he did not fulfil even the relaxed standard for promotion to the post of O.S. Gr.II against SC/ST quota, he was regularised on the basis of the reports in inservice training as O.S. Gr.II with effect from 29.12.1990. Thereafter he became eligible to the post of OS Gr.I after 2 years completion of service as OS Gr.II. He was initially kept in the seniority list of OS Gr.II at Sl. No.16. Subsequently his seniority was revised and he was assigned seniority below Sl.26 noted as 26 A as it is stated that his earlier seniority was fixed wrongly. But he was informed by letter Dt.30.7.92/ 4.8.92 regarding his revision of seniority and was advised to represent against that if he so desires. But he has not represented against the revision of seniority. This is not refuted by filing a rejoinder. He has not come up for promotion for OS Gr.I based on CRS and SRs and overall performance in the year 1991-92. However he was considered for promotion against the upgraded post of OS Gr.I with effect from 1.3.93. But unfortunately he was also not found fit for promotion.

It is stated in the reply statement that both of them were promoted to the grade of OS Gr.I with effect from 8.2.94 and are working from that date. In short this application is filed for preponing their promotion to the post of OS Gr.I with effect from 1.3.93.

This OA is filed challenging the provisional panel bearing No.P(EL)608/O.S./Vol.II dated 5.5.93 (page 9 of the OA)

wherein the names of the applicant were not included in that list and to set aside that impugned order and for a consequential direction to the respondents to prepare a fresh pannel to the post of OS Gr.I in accordance with the seniority list Dt.1.4.92 to promote the applicant to the post of OS Gr.I and give them consequential benefits with effect from 1.3.93.

The post of OS Gr.I is admittedly a non-selection post. Seniority for promotion to this post is to be decided on the basis of seniority-cum-suitability. Promotion to non-selection post is governed by Rule 214 (a) and (b) I.R.E.M. This rule has been extracted in OA at page 5 of the affidavit. As per this rule a senior railway servant may be passed over only if he or she is declared unfit for the post in question. Such unfitness should have been made some time previous to the time when promotion of the railway servant is being considered. It is also enshrined in the rule that a brief reason for such supersession should be recorded in the DPC proceedings.

We have perused the D.P.C. Proceedings for promotion to the post of OS Gr.I in the scale of pay of Rs.2000-3200/- (RSRP) with effect from 1.3.93. The confidential reports for 3 years namely 89-90, 90-91 and 91-92 were considered for promotion to that post. The entries in the SR was also taken into account while the DPC considered the case of the applicants for promotion. On the basis of the above records the competent authority declared them unfit for promotion. Thus the rule 214 of I.R.E.M. has been fulfilled. However the learned counsel for the applicant submitted that their unfitness was not intimated to them some time previous to the time when their promotion is being considered. A reading of the affidavit

will give clue to this contention. As can be seen from the affidavit it is evident that the applicant-I has been informed of the deficiencies in the CR. He did not care to challenge them. However the rule is only a suggestive one. Even if it is considered a lapse it is a mere technical lapse and on that basis a railway servant cannot be promoted. Efficiency is of paramount importance in the Government service. An inefficient servant who is not found fit for promotion cannot be allowed for promotion on some technical grounds. An overall view of the position has to be taken into consideration. It appears from the reply and DPC proceedings that the applicants were not faring well in their job. This need not be told to them every now and then. An efficient Government servant will analyse his shortcomings and rectify them instead of waiting for somebody to advise him so. In this case he is aware of his shortcomings, atleast for 1991-92, when the applicant No.1 was informed of the adverse remarks in the CRs. Similar is the position in regard to second applicant also. Still worse is the second applicant did not care to challenge his seniority position when his seniority was revised from 16 to 26A. Hence applicant No.2 cannot get any promotion in vacancies for which DPC met in 1992 as he was not in the zone of promotion. Both of them were rightly not empanelled for promotion to the post of OS Gr.I against the restructured vacancies that occurred on 1.3.93 due to their unfitness. As stated earlier both of them were found unfit on the basis of records i.e. CRs and SRs.

The applicant No.2 is a ST candidate. There was a post reserved for ST candidate in the vacancies which arose as on 1.3.93. From the selection proceedings we find that another ST caste candidate who was in the field of eligibility

was found fit and promoted against the ST quota. Hence applicant No.2 can have no grouse if another ST employee who is efficient is appointed against that reserved post. Thus from the above narration, we find that the applicants lost their promotion due to their unfitness for promotion and cannot now agitate for preparing a fresh panel as prayed by them and promote them from 1.3.93. —————

In view of what is stated above, there are no merits in the OA for consideration. The OA is dismissed. No costs.

(The DPC proceedings are perused and returned back.)

(2. PROSPECTIVE)
1947-1950

Central Administrative Tribunal (CAT) **1994**
Central Administrative Tribunal (CAT) **ED COURT**
HYDERABAD BENCH

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