

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION-NO.745 OF 1994

DATE-OF-ORDER: 7th-May, 1997

BETWEEN:

GARAPATI SUBBA RAO

.. APPLICANT

AND

1. The General Manager,
South Central Railway,
Secunderabad,
2. The Deputy Chief Mechanical Engineer
(Personnel Branch), Wagon Workshop,
S.C.Railway, Guntupalli,
3. The Production Engineer,
Wagon Workshop,
SC Rly, Guntupalli,
4. The Works Personnel Officer,
Wagon Workshop, SC Rly,
Guntupalli.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.G.V.SUBBA RAO

COUNSEL FOR THE RESPONDENTS:Mr.V.RAJESWARA RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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

ORDER

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

Heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant was appointed as Khalasi under land loser quota whose land/father's land was taken for

authority as the appellate order was passed on 15.12.93. Though the applicant states that the above submission was made in the revision petition, the order in the revision petition does not indicate any observation in that context.

7. The learned counsel for the respondents submitted that the applicant never brought to the notice of the respondents that the property of his father was shared between the sons and his mother. The pattas were not bifurcated. Hence it cannot be said that the land was divided between him, his brother and his mother and thus entails him to get the appointment for his brother and himself against the land loser quota.

8. The learned counsel for the applicant submits that once the father had died and the land which is of ancestral property deemed to have been devolved on the heirs of the deceased and it is not necessary to divide and have separate pattas for the purpose of appointing the applicant and his brother against the land loser quota. He further amplified by saying that it is no longer combined patta and it is presumed as divided patta and it is not a joint property for all the members of that family.

9. The applicant as stated earlier has not brought out any of the above points in his appeal to the appellate authority. He had not brought to the notice of the appellate authority that the direction given in OA 453/90 applies to him though that OA was disposed of much earlier than the date of submission of the appeal to the appellate authority. In that view, we feel that an opportunity

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Hence he submits that the case of the applicant in this OA is similar to the applicant in OA 453/90.

5. It is further stated that no proforma was fixed for submission of the application for appointment against the land loser quota. The applicant was asked to submit his own application which he submitted on 4.6.80 as can be seen from the Annexure A-II at Page 16 to the OA. As there was no proforma for submission of the application, the question of concealing any fact does not arise. He submits, that in the application requesting for appointment against the land loser quota, if the appointment of his brother is not indicated, it is not a case of concealment of fact. This proposition is also upheld by this Tribunal in OA 453/90, submits the learned counsel for the applicant. In OA 453/90, a charge sheet was issued to the applicant therein and the applicant in that OA was also removed from service. For the reasons stated in the judgement in OA 453/90, the applicant therein was ordered to be reinstated into service with certain consequential benefits. The applicant now submits that he is also eligible to get the same benefit as was given to the applicant in OA 453/90.

6. The impugned punishment order was passed by the disciplinary authority on 17.4.93 i.e, after disposal of the OA 453/90 on 11.2.93. Hence the applicant had the benefit of the direction of this Tribunal in OA 453/90 before submitting his representation even to the disciplinary authority. Even assuming that he did not submit the above contention to the disciplinary authority, it was possible for him to submit the same to the appellate

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should now be given to the applicant to submit the facts in detail to the appellate authority and that the appellate authority to consider that appeal in the light of his contentions afresh and also taking due note of the directions given by this Tribunal in OA 453/90 and decide the issue on merits. In that view, it is necessary to set-aside the appellate order as well as the revision order. If the fresh appeal is submitted now, it may be construed as a delayed petition. In view of that, a direction is also given to the appellate authority to deal with the appeal without going into the question of limitation.

10. In the result, the order of the appellate authority in No. P.90/GTPL/GSR/1691 dated 18.3.94 are set-aside. The applicant is permitted to file a fresh appeal to the appellate authority as indicated above within a period of one month from the date of receipt of a copy of this order. If such an appeal is received, the appellate authority will decide the issue on merits taking due note of the observations made by us as above and also the observations in the order in OA 453/93 in accordance with law within a period of three months from the date of receipt of the appeal.

11. The OA is ordered accordingly. No order as to costs.

सत्यमेव जयते
CERTIFIED TO BE TRUE COPY

[Signature]

न्यायालय अधिकारी
COURT OFFICER

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH