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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 985/94

Date of Order: 12.9.97

BETWEEN :

- | | |
|----------------------|-----------------------|
| 1. T.Guruvulu | 10. P.Vallabhudu |
| 2. D.Yesub | 11. Md. Abdul Khuddus |
| 3. P.V.Satyanarayana | 12. Sk. Abdul Azeem |
| 4. M.Venkatratnam | 13. R.Subba Rao |
| 5. V.Venkanna | 14. G.Soma Raju |
| 6. V.Paradesi | 15. N.Sundara Rao |
| 7. T.Sundara Rao | 16. G.Samuel |
| 8. T.Pothu Raju | 17. R.Appa Rao |
| 9. K.Brahmayya | .. Applicants. |

AND

- | | |
|---|------------------------|
| 1. Union of India, rep. by its General Manager, S.C.Rly., Rail Nilayam, Secunderabad. | 21. B.Venkateswara Rao |
| 2. The Divisional Railway Manager, S.C.Rly., Vijayawada, Krishna Dist. | 22. K.Satyanarayana |
| 3. The Senior Divisional Engineer (Co-Ordn), S.C.Rlys., Vijayawada, Krishna Dist. | 23. P.G.Satyam |
| 4. The Senior Divisional Personnel Officer, S.C.Rly., Vijayawada, Krishna Dist. | 24. G.Venkateswara Rao |
| 5. B.Balasubrahmanyam | 25. G.Venkata Rao |
| 6. C.Abdullah Kutty | 26. P.Venkata Rao |
| 7. B.Chenchugadu | 27. A.Satyanarayana |
| 8. R. Adinarayana | 28. A.Shivaji Rao |
| 9. M.Meerajan | 29. K.Veera Raju |
| 10. T.Narayadu | 30. P.Subba Rao |
| 11. M.Hussain | 31. M.Swamy Dass |
| 12. N.Sundaramu | 32. D.Pentaiah |
| 13. A.Locanathan | 33. T.Balaiah |
| 14. M.Solmon | 34. B.Subba Rao |
| 15. P.Venkanna | 35. B.Narasimha Rao |
| 16. M.Ebrahim | 36. K.Sree Rama Murthy |
| 17. V.Papa Rao | 37. K.Bhima Raju |
| 18. V.Sundara Rao | 38. M.Chantaiah |
| 19. M.Subba Rao | 39. M.Satyam |
| 20. S.Venkateswara Rao | 40. M.Gneswara Rao |
| | 41. S.Rama Krishna |
| | 42. A.Tatabbai |
| | 43. M.Viswanatham |
| | 44. A.Manikyam |
| | 45. C.Raja Ratnam |
| | 46. G.Rama Rao |

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47. D.Pasalu
48. Mohana Rao, N.
49. M. Veeranna
50. V. Bagaiah
51. M. Bhaskara Ram
52. S. Ramulu
53. V. Ramakrishna
54. M. Sessa Rao
55. P. Rama Rao

.. Respondents.

Counsel for the Applicants

.. Mr. N. Rama Mohan Rao

Counsel for the Respondents

.. Mr. D. Francis Paul

CORAM:

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

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

J U D G E M E N T

{ As per Hon'ble Shri R. Rangarajan, Member (Admn.) }

Heard Mr. N. Rama Mohan Rao, learned counsel for the applicants and Mr. D. Francis Paul, learned standing counsel for the official respondents.

2. Notice has been served on all the private respondents numbering 50. Out of these private respondents, R-6, 9, 10 and 24 had already retired from service. R-15 and 16 are stated to have expired as per the letter of the Divisional Railway (Personnel) Manager vide his letter No. B/P.648/LAW/CAT/52/94, dt. 20.10.94. None of the private respondents were present even though they had received the notice. No counsel also appeared on their behalf.

3. There are 17 applicants in this OA. They are working as Khalasi Helpers under Chief Bridge Inspector II S.C. Railway, Rajahmundry, East Godavari District i.e. under R-3.

4. This OA is filed praying for a direction to Respondents (a) 1 and 2 herein to prepare the seniority list of khalasi helpers in semi-skilled grade after screening/test against temporary/permanent posts, but not based on the length of temporary service rendered and also based upon the dates of regular absorption as khalasis;

(b) Direct the respondents not to act upon any further on the proceedings No.B/P.612/VII/Bridge dated 12.11.93 which has been finalised by R-4 without communicating orders to that effect;

(c) Further direct the respondents to refrain from filling up the posts of Artisans in the scale of pay of Rs.950-1500 (RSRP) based on the impugned seniority list circulated through proceedings list which was holding the field earlier thereto ;

are entitled to fix their seniority in accordance with the judgement of the Apex Court in Kameswari's case reported in 1993 (1) SIR 553.

... through the seniority list issued on 12.11.93. This seniority list itself is a provisional seniority list. No final. Unless an order has been issued finalising the provisional a final one. As can be seen from the provisional seniority list dt. 12.11.93 the same was prepared based on the directions of this Tribunal in TA.2/89 in W.P.No.10258/86. It is stated for the

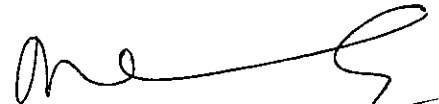
respondents that after the issue of the judgement in TA.2/89 number of provisional seniority lists were issued in the year 1989, 91, etc. But those seniority lists were not made final as there were some grievances from the staff side. The learned counsel for the respondents submits that this Tribunal had given certain directions in the year 1993 in preparation of seniority of casual labour Khalasis regularised subsequently. They have followed the directions given by this Tribunal or the A.P. High Court and the seniority list of Khalasis had been finalised counting the seniority from the date of attaining temporary status. In case the seniority list has not been prepared already as per directions above then the ruling given by the Apex Court in Kameswari's case had to be followed. The learned counsel for the respondents submits that in view of the above dictum of this Bench the Bridge Khalasis seniority list under Bridge Inspector, Rajahmundry was finalised not taking their date of entry into service and accordingly the impugned seniority dt. 12.11.93 was issued. But when there is an Apex Court judgement directing that the seniority of the Khalasis in a seniority unit in railway has to be fixed on the basis of their date of regularisation then all the directions given earlier for preparation of seniority list has become unenforceable if their seniority list had not become final earlier to 12.11.93. Then the directions given by the Supreme Court only has to be followed. The directions of the Supreme Court indicating the method of fixing the seniority of the Khalasis has been given in Kameswari's case referred to above dt. 12.11.93. Hence all the seniority lists issued after that date if there are no other earlier final seniority list on the basis of this judgement of this Tribunal or A.P. High Court, the directions of the Supreme Court has to be followed. In the present case the provisional seniority list was dt. 12.11.93. If that seniority list even though provisional is contrary to the directions of the Supreme Court, Such a seniority list cannot be

upheld. The respondent must necessarily follow the directions of the Supreme Court for issuing the seniority list for Khalasis in the railways. In the present case the seniority list of Khalasis under the Bridge Inspector, Rajahmundry has to be finalised as per directions of Apex Court in Kameswari's case.

6. In view of the above the following directions^{are} is given:-
- (a) The provisional seniority list No.B/P.612/VII/Bridge dt. 12.11.93 (A-7) is not enforceable.
 - (b) The respondents should issue a provisional seniority list urgently on the basis of the directions given by the Apex Court in Kameswari's case referred to above for the Khalasis under Bridge Inspector, Rajahmundry and call for any objections for the seniority list. That provisional seniority list should be finalised after considering the objections received, if any, and the final seniority list should be issued thereafter.
 - (c) Promotions to higher grades should be issued only on the basis of the seniority list to be issued in pursuance of the above directions.
 - (d) Promotions made after filing of this OA dt. 9.8.94 has to be reviewed on the basis of the final seniority list to be issued.
 - (e) Time for compliance is 4 months from the date of receipt of a copy of this order.

7. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

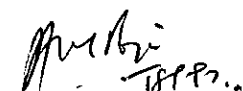

(R.RANGARAJAN)
Member (Admn.)

Dated: 12th September, 1997

(Dictated in Open Court)

sd

12.9.97


D.R. (J)

28/9/97 (8)

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: M
(J)

DATED: 12/8/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in

O.A. NO. 985/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

