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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO. 970/94.

DATE OF ORDER : 17-06-1997.

Between :-

B.Jenkata Ramudu

... Applicant

And

1. Union of India represented by  
General Manager, SC Rlys,  
Rail Nilayam, Sec'bad.

2. Chief Personnel Officer,  
SC Rlys, Rail Nilayam,  
Sec'bad.

3. Chief Personnel Officer,  
SC Rlys, Guntakal.

4. K.Anantha Charyulu

5. V.M.Krishnan Unni

6. G.Venkatesh

7. A.G.Venkateshan

8. E.Manavalan

9. B.Raja Reddy

... Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents : Shri N.R.Devaraj, Sr.CGSC

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CORAM:

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

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

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

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... 2.

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

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Heard Sri G.Ramachandra Rao, counsel for the applicant and Shri NR Devaraj, learned Sr. standing counsel for the respondents.

Though notice was served on Respondent No.4 to 9, they did not appear before us. They were called absent.

2. The applicant joined the Railway service as a Traffic Apprentice. He was selected against the 10% departmental quota earmarked for serving employees of the railways. His scale of pay as a Traffic Apprentice was Rs.425-455 (RS) and the panel was published under proceedings No.P(T)99/TQ/TA/Volume dt.1-10-84 by respondent No.2. It is stated that panel was published in the order of merit obtained in the selection. The applicant was at the top of the merit list and the respondents 4 to 9 were much below him in the select list rank. The above list is enclosed as Annexure-I to the OA. The applicant underwent training along-with others for a period of 36 months. After training he was absorbed in the working post of Asst.Yard Master and was allotted to Guntakal Division by proceedings dt.G/P.99/1/2/Volume.V dt.11-1-88 Respondent No.9 in this OA was posted as a Section Controller. It is stated that the applicant protested against his posting as Asst.Yard Master when his rank is above that of Respondent No.9. Hence it is further submitted that the above said order posting the applicant as AYM was cancelled and he was posted as Section Controller through proceedings No.G.P.99/1/2/Vol.V dt.14-3-88 (Annexure-3 to OA). The applicant thereafter was promoted as Dy.Chief Controller in the scale of Rs.2000-3,200/- and was retained at Guntakal itself by proceedings No.G/P.535/1/5/CHC dt.4-5-90

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(Annexure-4 to OA). The proceedings dt.31-12-87 indicates the seniority position of the applicant vis-a-vis other Traffic Apprentices/Assistants, who completed training and allotted to various divisions. As per that proceedings, seniority position of the allottees in each division was fixed on the basis of their performance in the final assessment examination. Subsequently it is stated the seniority position was revised under proceedings No.P(T)535/Traffic Apprentices/Allotment dt.10-4-90 (Annexure-5 to OA) duly fixing the seniority of the Traffic Apprentices on the basis of the order of merit in the selection panel dt.30-7-84. In the said seniority list dt.10-4-90, the applicant as well as Respondent No.4 to 9 were ~~not~~ shown correctly in category of Traffic Apprentices, who were already working in the working posts. Another provisional seniority list was published under proceedings No.G.P.612/1/Controllers dt.1-7-91. In the said provisional seniority list, the ranking of the applicant was shown at Sl.No.21 whereas the Respondents 4 to 9 were shown above the applicant. The applicant submits that this seniority list is contrary to the seniority list issued by proceedings dt.10-4-90. Hence the applicant made a representation dt.18-7-91 (Annexure-6 (a) to OA). It is stated that no final decision has been taken in this connection and no final seniority list was also issued. A seniority list of Dy.Chief Controllers in Guntakal Division as per proceedings No.P(T)612/Optg./Control dt.28-10-92 (Annexure-6(b) to the OA) was issued. The applicant submits that the seniority position of the applicant is not correctly shown and he is shown as junior to Respondents 4 to 9 herein. The applicant again submitted a representation dt.5-11-93 and it appears that even that seniority

list has not been finalised. In the meantime another provisional seniority list No.GP.612/1/Controllers dt.20-12-93 (Annexure-6 to OA) of Dy.Chief Controller of Guntakal Division in the scale of Rs.2,000-3,200/- was issued. In the said list, the seniority position of the applicant was shown wrongly below Respondents 4 to 9, submits the applicant.

3. The next promotion to the post of Dy.Chief Controller is to the post of Chief Controller and that post has to be filled taking into consideration the seniority of the Dy.Chief Controllers. The applicant submits that his promotion prospects are jeopardised because his position is shown wrongly in the seniority list.

4. This OA is filed praying for a direction to Respondent No.1 to Respondent No.3 herein to reckon the seniority of the applicant in the category of Rs.2,000-3,200 over and above respondents 4 to 9 herein with all consequential benefits including promotion to the next higher post.

5. A reply has been filed in this OA.

6. The facts of this case as brought out above, are not disputed. In para-1(d) of the reply, it is stated that the seniority of various cadres viz., Station Master, Yard Master, Section Controller posted to work in different divisions in SC Rlys, was fixed based on the performance in the final assessment examination in terms of letter dt.31-12-89. Subsequently Respondent No.2 in his letter dt.26-2-98 revised the seniority of the applicant along with his batch mates and re-allotted the positions based on the positions assigned in the original selection panel in terms of circular No.P(Trg.)563/Tfc.App.dt.30-7-84 (Annexure R.III to counte



6. In para-1 (f) of the reply it is stated that the seniority of the applicant in controllers cadre was fixed on the basis of his entry into cadre.

7. The counsel for the applicant submits that he has no objection if the seniority of the applicant is fixed in terms of para-I-(e) of the reply but it cannot be fixed on the basis of para-1-(f), whereby the seniority of the applicant has to be fixed on the basis of the entry into service as Section Controller. A rejoinder has also been filed by the applicant in this connection. In the rejoinder, the applicant contends that the seniority list prepared on the basis of joining the post instead of merit ranking is contrary to rules and hence the seniority list has to be set aside.

8. From the reply of the respondents, it is clear that the stand taken by the respondents vary from time to time. Probably this stand varies also depending upon the employee. We do not see any valid reason for revising the seniority list every now and then. Indian Railway Establishment Manual para/ clearly ~~six~~ provides the guidelines for fixing seniority of the directly recruited apprentices. The learned counsel for the respondents submits that the seniority to be fixed on the basis of the merit rank in the examination conducted at the end of the training. When such a rule is existing, it is not understood why in para-1 (f) of the counter it is stated that the seniority of the applicant was fixed on the basis of date of entry into service. Learned counsel relying for the respondents/on the posting order dt.14-3-88 (Annexure-3 to OA) submits that the applicant was promoted to the cadre of Section Controller and that date was reckoned for fixing seniority.

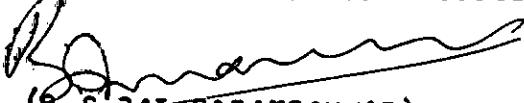
Annexure-3 posting order is a reversal of the posting between the

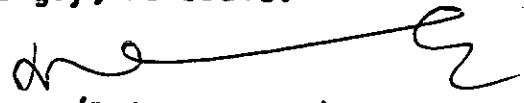
applicant and respondent No.3. When all the apprentices have joined a particular cadre either as Station Master/Asst.Yard Master or Section Controller, the inter-se seniority between them should be decided on the basis of their performance in the examination held at the end of the Training. The question of promotion from lower cadre does not arise. <sup>We are</sup> I am not convinced of the submission made by the respondents in/their case. The only criteria that is to be followed in fixing seniority of the Traffic Apprentices should be on the basis of their performance in the examination held at the end of Training and on that basis their future seniority in the cadre of Dy.Chief Controller has to be decided.

9. In view of the foregoing, the seniority of the applicant vis-a-vis respondents 4 to 9 has to be decided in the cadre of the Section Controller when they joined in the post of Section Controller on the basis of their merit position in the final examination at the end of the Training. Their seniority above that post viz., Dy.Chief Controller will have to be decided on that basis provided they fulfil other conditions for getting promotion to/Dy.Chief Controller in accordance with the rules. Their further promotion is to be effected to the post of Chief Controller/on the basis of that seniority in the cadre of/Dy. Chief Controller following the extant rules.

10. The seniority list should be revised as above and published within a period 3 months from the date of receipt of a copy of this order.

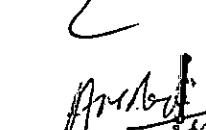
11. The OA is ordered accordingly, No costs.

  
(B.S.JAI PARAMESHWAR)  
Member (J) 17/6/97

  
(R.RANGARAJAN)  
Member (A)

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Dated: 17th June, 1997.  
Dictated in open court

  
D.R (JUD.)