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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No. 995 of 1994

Date: 25th June, 1997.

Between:

G. Hariprasad. .. Applicant.

And

1. Divisional Personnel Officer,  
S.C.Railway, Secunderabad.

2. Divisional Railway Manager,  
Broadguage, S.C.Railway,  
Secunderabad.

3. General Manager, S.C.Railway,  
Secunderabad.

4. S.Ponnu Swamy.

5. B.Hariprasada Rao. .. Respondents.

Counsel for the applicant: Sri J.M.Naidu.

Counsel for the respondents: Sri N.R.Devraj, Senior  
standing counsel for Respondent

CORAM:

HON'BLE SHRI H.RAJENDRA PRASAD, Member (A)

HON'BLE SHRI A.M.SIVADAS, MEMBER (J) (Ernakulam Bench)

JUDGMENT.

(per Hon'ble Shri A.M.SIVADAS, MEMBER (J))

Heard Sri G.M.Naidu for the applicant and  
Sri N.R.Devraj for the respondents.

2. The applicant seeks for a declaration that  
the action of the 2nd respondent in rejecting his  
name as per Annexure A-1 ~~for reference~~, is illegal  
and arbitrary and also for a direction to the

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2nd respondent to restore his seniority by placing him below Sl.No.39 and above Sl.No.40 in Annexure A-5.

3. According to the applicant, he was selected for the post of Ticket Collector and was sent for training course from 26--11--1974 to 9-1-1975 at Zonal Training School, Moulali. At the conclusion of the training course, written examination was conducted and seniority list was prepared in the order of merit based on the marks obtained in the written test. The applicant joined duty on 6-3-1975.

According to the applicant, while preparing the seniority list of Ticket Collectors, the respondents misunderstood and confused the name of the applicant with that of the 5th respondent and had shown the name of the 5th respondent as senior to the applicant.

*Says h*  
The applicant further ~~submitted~~ that he submitted a number of representations to the respondents with regard to the mistake that had crept in, in the records.

On 28--3--1996, the applicant and respondent Nos., 4 and 5 were promoted to the Grade of Rs.330--560(RS). The applicant and respondent No.4 were promoted to the post of Head Ticket Travelling Examiner on 19--12--1989.

dated 1-5-1994  
In the provisional seniority list/ Ticket Checking Staff in the scale of Rs.1400--2300, the applicant's name was shown at Sl.No.51 and that of the 5th respondent at Sl.No.40.

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4. According to the respondents even before the publication of the seniority list in the year, 1981, the applicant and the 5th respondent were promoted to the scale of Rs.335--560 which was a non-selection post as per the order dated 23--9--1976. In the said order Respondent No.5 is shown at Sl.No.30 and the applicant at Sl.No.33. Promotions were made based on the seniority in the lower grade and the names were arranged in the promotion order as per seniority. The applicant made <sup>no</sup> ~~an~~ representation during the year, 1976 with regard to his seniority. During the year, 1986 the applicant and Respondents 4 and 5 were promoted to the post of Conductor/Guard as per order dated 1-1-1986 and as per the said order Respondent No.5 is shown at Sl.No.4 whereas the applicant is shown at Sl.No.7. In the seniority list published during the years 1981 and 1988, the applicant's name was shown below Respondent No.5.

5. The applicant is relying on Annexure A-2 <sup>Canvass</sup> in order to ~~confirm~~ the position that he is senior to Respondent Nos., 4 and 5. In Annexure A-3 dated 4--3--1995, the posting order of the Ticket Collectors, the applicant is shown at Sl.No.2, the 4th respondent is shown at Sl.No.3 and 5th respondent at Sl.No.5. There ~~is~~ is no other document

which the applicant has filed to show that he is the senior to respondent Nos., 4 and 5. Annexure A-3 cannot be said to be conclusive proof as to the seniority of the Ticket Collectors. It is not the seniority list, It is only a posting order. No rule or authority was brought to our notice by the learned counsel for the applicant that the posting order like Annexure A-3 is to contain the names of the officers only in the order of seniority. The learned counsel for the applicant is relying on para 303 of IREM Vol. I which does not show that an order like Annexure A-3 should show the names of the officers in the order of seniority.

6. Even though it is alleged in the O.A., that several representations were made by the applicant to the authorities concerned to fix his seniority correctly, apart from the representation dated 31-1-1994, no copy of any other representation which is stated to have been submitted is produced before the Tribunal. It is not enough in an Original Application(O.A.) to allege the facts only. Evidence also should be contained in the pleadings. ~~So~~ So with regard to the averment of the applicant that several representations were submitted by ~~him~~ to the Authorities, there is only his bald allegation, ~~but~~ <sup>L</sup> there is absolutely, no evidence to that effect.

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7. In Annexure R-3, the provisional seniority list, the applicant ~~was~~ is shown at Sl.No.362 while the 5th respondent is shown at Sl.No.359. In Annexure, R-4, the applicant's name is shown at Sl.No.33 whereas the 5th respondent's name is shown at Sl.No.30( in Annexure R-4 against Sl.No.30, the name is shown as "NARAPRASAD RAO"). The learned counsel for the respondents submitted that it is only a typographical error and Sl.No.30 is the 5th respondent).

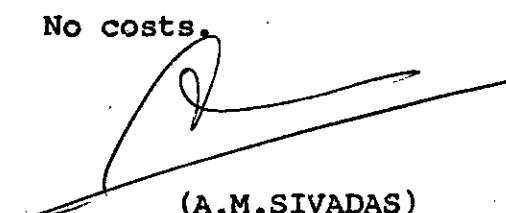
8. There is no material to show that the applicant has submitted any objection to his ranking in Annexure R-3 and Annexure R-4. Even though, R-3 is a provisional list, when there is no material to show that the applicant has filed any objection, it is to be taken that he has no objection <sup>with</sup> <sub>in</sub> regard to the ranking shown therein. R-3 is dated 1--3--1981. R-4 is dated 23--9--1976. In the absence of any ~~documentary~~ evidence to show that the applicant has submitted any objections to the earlier seniority lists, it is to be taken that he has not raised any objection. When it is to be taken that he has not <sup>raised</sup> <sub>not</sub> taken any objection, it means that he has accepted ~~such~~ the seniority ~~list~~ shown in the earlier seniority lists. That being so, after this much lapse of time the applicant cannot claim that his seniority should be

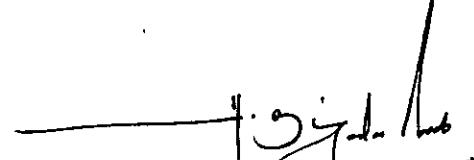
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fixed on the basis of Annexure A-3 dated 4-3-1975, based on the seniority lists prepared by the respondents and promotions have been effected. In the promotion list respondent Nos., 4 and 5 are placed above the applicant. That has taken place long ago. After the lapse of this much time, the settled position cannot be unsettled. A party who sleeps over for a considerable length of time has necessarily to face and suffer the consequences. We are unable to agree with the arguments advanced by the learned counsel for the applicant that A-1 has given cause of action for this application. The cause of action, if the applicant has got a grievance, has arisen long ago. We do not find any merit in this O.A.

Accordingly, the O.A., is dismissed.

No costs.

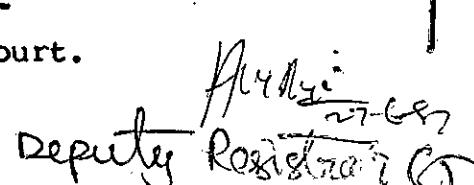
  
(A.M.SIVADAS)  
MEMBER (J)

  
(H.RAJENDRA PRASAD)  
MEMBER (A)

Date: 25-6-1997.

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Dictated in open Court.

ss.

  
Deputy Registrar  
27-6-97

~~97/97~~

T COURT

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE  
VICE-CHAIRMAN

and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

The Hon'ble MR.A M SINGH : M(7)

Dated: 25-6-1997

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

995/97

T.A.No.

(w.p.)

Admitted and Interim directions  
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

