

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1197/94

DATE OF ORDER : 09-06-1997.

Between :-

K.S.Ross

... Applicant

And

1. Divisional Railway Manager (MG)
SC Rlys, Sec'bad.
2. Sr.Divisional Mechanical Engineer,
S.C.Rlys, Sec'bad.
3. Sr.Divisional Personnel Officer,
S.C.Rlys, Sec'bad.

... Respondents

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Counsel for the Applicant : Shri S.Laxma Reddy

Counsel for the Respondents : Shri C.V.Malla Reddy, 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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Tax

[Signature]

... 2.

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

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Heard Shri S.Lakshma Reddy, counsel for the applicant and Shri C.V.Malla Reddy, standing counsel for the respondents.

2. Eventhough this OA was filed on 20-9-94, no reply has been filed in this OA. In that view we feel that the respondents without filing reply cannot go scotfree/even after passage of 3 years. Hence the respondents should pay Rs.500/- to the applicant within a period of 15 days from today.

3. The applicant in this OA was initially appointed as Khalasi on 12-6-61. On 8-11-74 he was promoted as a Fireman in the scale of Rs.200-250. Even when he ^{was} ~~is~~ working as Khalasi, his services were utilised in the office as Tool Checker. It is stated that on 13-9-80 he was promoted on adhoc basis against the post of Tool Checker in the grade of Rs.225-308. In the year 1983 he was drafted as Power Office Recorder on adhoc basis. Then many of his juniors in the substantive grade of II Fireman and also in the grade of Power Office Recorder were promoted as Diesel Asst. in the Running ^{Cadre} ~~side~~ and the applicant's case was not considered for that post. He made a representation on 9-2-92. Though the applicant submits that this representation dt.9-2-92 ^{was} ~~is~~ in continuation of his earlier representation, neither the representation dt.9-2-92 ^{were} ~~is~~ nor the earlier representations/enclosed to the OA. He was informed by respondent No.1 by the impugned letter No.CP/235/M2/825 - 1200 dt.4-8-93 (page-1 of the OA) that the applicant, though in the Running Cadre, did not care to carry out the promotion ^{of} /II Foreman in the year 1981 and he has choosen to

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work as Power Office Recorder. ~~He~~ ^{hence} had also attained the age of 45 years and ^{could} ~~he~~ ^{not} be inducted into running cadre. Aggrieved by the above, he made another representation dt. 25-3-94 to consider him for the post of Diesel Asst. In this representation, he stated that he had worked for 6 years as II Foreman from 1974 to 1980 and then he was posted as Tool Checker in the interest of Administration and that he carried out the orders of Administration faithfully and that he should not be penalised when he was working as a faithful servant to the ^{Railway Administration.} ~~Government.~~

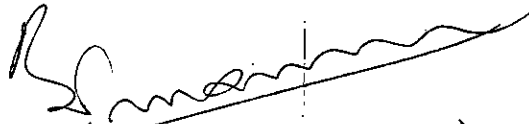
4. The applicant ^{has} ~~had~~ retired from service on 30-9-96.
5. This OA is filed for a declaration that the action of the respondents in not considering and promoting him as Diesel Asst./Electrical Asst. on par with his juniors either as II Fireman or as Power Office Recorder or Material Checker is totally illegal and arbitrary. and for a consequential direction to the respondents to promote him as Diesel Asst./Electrical Asst. with all consequential benefits.
6. It is not understood why the applicant continued to work as Power ^{Office Recorder} / ~~even~~ in 1983, When he worked as II Fireman from 1973 to 1980, He could have submitted a representation for if he was asked to work in the office designating him as Fireman posting him as Fireman in the field/and to consider him for the promotion. But the applicant submitted ^a representation only on 2-9-92 which was replied by letter dt. 4-8-93. If the applicant was interested to continue as Material Checker/Power ~~Recorder~~, he could have asked for change of category then itself. He has not done so. As he is over aged ~~for~~ by the time he represented on 2-9-92 for consideration for the post of Diesel Asst., he

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cannot demand as a matter of right for posting as Diesel Asst./
 Electrical Asst. as he has not fulfilled the qualifications for
 consideration for the post of Diesel Asst./Electrical Asst. The
 applicant, though submits that relaxation was given for considering
 some of employees above 45 years age for the post of Diesel Asst.
 by letter No.TP/34/1/Pers dt.24-5-94, he has not produced any letter
 requesting the administration to consider him to the post of Diesel
 Asst. after the issue of letter dt.24-5-94. Hence it has to be held
 that the applicant has not taken any judicious action for posting him
 in the running ^{Cadre} ~~side~~. Posts of II Foreman and Diesel Asst. are safety
 posts. The Tribunal cannot give a direction to post him in the
 safety post if he has not qualified ^{for} ~~in~~ that post as the lives and
 property are involved. Hence we are not inclined to give any direc-
 tion to consider him for the post of Diesel Asst. and such a question
 does not arise at this juncture as the applicant has retired ^{from service,} ~~now~~.
 However, the applicant was brought as Tool Checker on adhoc basis
 with effect from 13-9-80 and as he has worked as Tool Checker/
 Material Checker thereafter, He may now submit a representation to ^{the} ~~the~~
 respondent No.1 to give him proforma promotion on par with his juniors
 who were taken as Tool Checker/Material Checker in the grade of
 Rs.225-380 after 13-9-80 in the unit in which he was performing the
 duties as Tool Checker/Material Checker. If such a representation
 is received, ^{we} ~~respondent~~ No.1 should consider the same in accordance
 with the Law and decide the future course of relief that can be
 given to the applicant.

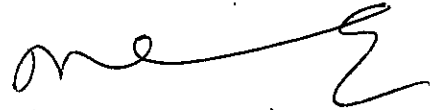
7. With the above direction, the O.A. is disposed of.

No order as to costs.



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

9.6.97

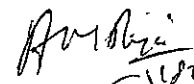


(R. RANGARAJAN)
Member (A)

Dated: 9th June, 1997.

Dictated in Open Court.

avl/


D.R. (J)

8/7/97

(7)

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI A. RANGARAJU, J.

AND

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

1/6/07

ORDER/JUDGEMENT

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

in

O.A. NO. 1197/94

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.

