

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD.

O.A.No. 1019/94.

Date of Decision:

Between:

R. Dwarakanatha Rao.

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Applicant.

And

1. The Chairman, Railway Board,
New Delhi.

2. The Chief Personnel Officer, S.C.Railway,
Secunderabad. .. Respondents.

Counsel for the applicant: Sri K. Sudhakar Reddy.

Counsel for the Respondents: Sri Francis Paul, Standing counsel
for Railways.

JUDGMENT:

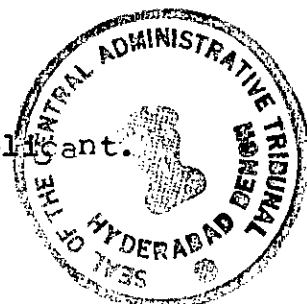
(by Hon'ble Sri H. Rajendra Prasad, Member (A) *Q. 4/4*)

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Heard Sri K. Sudhakar Reddy, learned counsel for the
applicant and Mr. Francis Paul, learned standing counsel for
the Railways.

2. The applicant in this O.A., joined the Railways on
1.7.1963, prior to which date he had worked as Secondary Grade
Teacher in Schools under the Zilla Praja Parishad Management
from 1952 to 1963, with certain breaks. He applied for the
post of Hindi Pandit in the Railways on 27.9.1962. In his
application for the said post he had indicated against Column #

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- (iv) The Zilla Praja Parishad under whom he was working had in any case duly sanctioned him leave with specific permission to secure a job elsewhere.
- v) The letter Rc.No.30/63 dated 1.7.1963 addressed by H_gc Master, B.R.Zilla Parishad High School, Punganuru (copy endorsed to the applicant) states that the applicant had been relieved of his duties in the forenoon of 1.7.1963 as per the order of the Secretary, Zilla Parishad, Chittoor in D.Dis.No.16199/63 dated 25.6.1963 to enable the applicant to avail extraordinary leave without allowances with permission to work elsewhere for one year from 1.7.1963 to 30.6.1994. Thus, the previous Management apparently had no objection to his working with the Railways. This tantamounted to his candidature having been sponsored by the Zilla Praja Parishad Authorities.

7. Basing on above reasons, the applicant prays for a declaration that the denial of benefit to him of counting the service rendered outside the Railways for pensionary benefits as illegal and further to direct the respondents to count his service rendered in the Zilla Parishad Schools with a view to suitably revising and refixing his pension with retrospective effect from 1.11.1988.

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it was explained that the retired official's request was found unacceptable in view of the fact that he had not sent his application through proper channel or with the permission of the concerned Administrative Authorities while applying for the post of Hindi Teacher in the Railways.

5. The applicant is aggrieved by this decision. Hence the O.A.

6. The applicant puts forth the following arguments in support of his grievance:

- i) There was no specific condition in the advertisement (in response to which he had applied for the post in the Railways) that a candidate in the employ of Central/State Government should apply through the relevant Employer/Management.
- ii) Since he had duly indicated that he was employed as a Secondary Grade Teacher and was continuing to do so; in view of this, his application should have been rejected on that score, instead of being entertained and accepted, if there was indeed a definite rule that such of the candidates who were already employed had to apply only through their respective superiors/Managements.
- iii) This objection was not initially raised at the stage of scrutiny of the applications, nor at the time of interview nor even at the stage of his appointment, or, indeed, till now.

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had duly indicated that he was working as Secondary Grade Teacher but was not sponsored by the said Government, Mr. Paul learned counsel for the respondents stated that there could indeed be no objection to his candidature being entertained in the Central Government as a fresh recruit as he had fulfilled all the requisite conditions for the selection of a candidate for such appointment. In this light, the entry offered by the candidate against item "F" of the application form had no relevance or significance specially in view of the fact that he had not filled up the said certificate portion of the application form meant for candidates serving under State Government. He was thus treated entirely as an outside candidate like any other. It is further pointed out that the applicant had joined the Railway service on 1.7.1963. Earlier, he had apparently applied for and been granted leave by the Zilla Parishad Authorities for a period of one year thereafter. This would mean that he had not actually resigned his earlier post, and may have in fact been guilty of holding two posts simultaneously between 1.7.1963 and 13.6.1993 under different Governments. The applicant has not produced/filed any certificate that he was holding a lien on his post under the Zilla Parishad Management.

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8. The respondents in their counter-affidavit state that the applicant's claim had been once projected by the Railway Employees' Sangh and was duly examined in terms of Railway Board's Circular Nos. F(E) III/82/PNI/6 dated 13.11.1982 and F(E)/II/87/IN3/1 dated 27.2.1990. The main hurdle in accepting his request was that a candidate, to become eligible for counting of qualifying service rendered under the State Government, was required to submit his application through proper channels. In the absence of this, the application put in by the applicant for the post of Hindi Teacher had had to be simply treated as one submitted directly by an outsider applicant inasmuch as his candidature had not been 'forwarded' by the State Government/Zilla Praja Parishad Authorities. His subsequent appoint^{ment} was, therefore, one given to an outsider in the normal course, and not in any way one offered to a State Government employee notwithstanding the fact that he may have been working under such Government/Authorities. It is also pointed out that the applicant had deliberately left unfilled the certificate of details, included in the printed application form, regarding service particulars of the candidate under the State Government. What is more, the portion containing the certificate was not merely left blank but actually scored through by the applicant himself. As to why then his candidature was still accepted when the candidate

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The reasons are not known ~~but~~ the fact is obvious. It is seen that the applicant was granted extraordinary leave by the Zilla Parishad for working elsewhere for one year. It is not understood how exactly the Authorities decided to allow the applicant to work elsewhere for one year which is very unusual and also incorrect. Even so, it is nowhere mentioned or brought out that the Zilla Parishad did in fact know that the applicant was working in the Railways for a full one year even while retaining his position under them. All this is improper, to say the least. Finally, if the Railway Board's Circular does not have any application to the present claim of the applicant, as contended by his counsel, then the very basis of his claiming the present relief is knocked-out as rightly pointed out by the counsel for the respondents. This is so because it is the very same circular which extends the benefit to eligible officials. It cannot be seriously argued that a Circular can have only a partial application to suit the limited need of only one party and no applicability to the same party in other respects.

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Moreover, he was granted leave without allowances for a period of one year and also permitted to work for one year only, elsewhere. Beyond this period of one year what had happened between him and the Management till his retirement in the Railway, the applicant has not explained.

9. Under the circumstances, it is urged by the learned Standing counsel for the respondents, there are no merits in this application and it deserves to be dismissed.

10. Mr. Sudhakar Reddy, learned counsel for the applicant relies heavily on the Railway Board's Circular laying down the conditions for extending the benefit of counting previous service to Railway servants. ^{He emphasises that} the Circular did not have retrospective effect and cannot therefore be applied to his case to deny him of a legitimate benefit. Mr. Paul countered this plea by stating that if the said circular had no application to the applicant's claim then he had no basis at all for claiming any kind of relief in terms of the self-same Circular.

11. The facts have been carefully examined. It is evident that for some reason the applicant had chosen not to apply for the benefit of the Circular. ^{Decided} Authorities who were at that time controlling his service.

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12. Viewed from any angle of the case or the claim, I do not find any scope to intercede on behalf of the applicant. His prayer seems to be a belated after-thought which came to be entertained long after his entry into railway service, after the extension of the said benefit by the Railway Board, and considerably long after his retirement. The applicant is seeking to invoke the above benefit through impermissibly tardy action which, moreover, is not available to him in terms of the relevant circulars.

His prayer, is, therefore, disallowed.

No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]
न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

16/9/02