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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 1319/94.

Dt. of Decision : 27.10.94.

V. Sankar Rao

.. Applicant.

Vs

1. Union of India rep. by  
its General Manager,  
SC Rly, Rail Nilayam,  
Secunderabad.

2. Chief Personnel Officer,  
SC Rly, Rail Nilayam,  
Secunderabad.

3. Divisional Railway Manager,  
SC Rly, Vijayawada Division,  
Vijayawada.

4. K. Chitti Babu

.. Respondents.

Counsel for the Applicant : Mr. G. Ramachandra Rao

Counsel for the Respondents : Mr. V. Rajeswara Rao for  
Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUD.)

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

O.A. 1319/94.

Dt. of Decision : 27-10-94.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

Heard Shri G. Ramachandra Rao, learned counsel for the applicant and Shri V. Rajeswara Rao for Shri N.V. Ramana, Addl. standing counsel for the respondents. The applicant who is now working as Wire-less Instrument Maintainer in the office of the Chief Telecommunications Inspector, Signal and Telecommunications Department Branch, South Central Railway, Vijayawada has in this application filed under section 19 of the Administrative Tribunals Act, prayed that the respondents 1 to 3 may be directed to reckon the seniority of the applicant in the post of Wire-less Instrument Maintainer from the date of his initial appointment i.e., 19.12.1971 or from the date when he was given temporary status i.e., 22.6.1972 with all consequential benefits including promotion to the next higher post of Master Craftsman ..

..... as follows; The applicant applied in response to an employment notification dt. 24.2.1971 issued by the third respondent for appointment to the post of Apprentice Telecommunications Maintainer and Apprentice Wire-less Instrument Maintainer. After a process of selection the third respondent by proceedings dt. 13.10.1972 offered to appoint the applicant as Substitute in the existing post of Wire-less Instrument Maintainer/Telecommunications Maintainer in the Signal and Telecommunications Branch, SC Railway, Vijayawada Division for a period of 3 months.

← → As the applicant offered his willingness, ← → he was appointed and posted

as a Substitute Wireless Instrument Maintainer on which post he joined on 19.12.1971. Though the order of appointment was for in a period of 3 months, the services of the applicant off were renewed and on and he continue in service as a Substitute Wireless Instrument Maintainer. During the above said service the applicant had also under gone training for Apprentice Telecommunications Maintainer from 24.12.1972. While working as Substitute Wireless Instrument Maintainer the applicant was called upon to appear for a trade test for absorption in the regular vacancy in the post of Telecommunications Maintainer as per proceedings dt. 1.5.1975. Since the applicant was selected in the year 1971 as Apprentice Wireless Instrument Maintainer and he had been working as Substitute Wireless Instrument Maintainer, he made a representation to the third respondent on 1.5.1975 protesting against the call letter to appear for the trade test for the post of Telecommunications Maintainer instead of Wireless Instrument Maintainer and requesting the third respondent to consider his case for absorption as Wireless Instrument Maintainer. Though the applicant did not wish to appear for the trade test, he was compelled to appear for the trade test along with others on 19.5.1975 and the applicant and others were selected and got panelled for absorption as Telecommunications Maintainer by order dt. 21.11.1975. The applicant was absorbed as Telecommunications Maintainer u.s.f., 21.11.1975. As the applicant had been working as a Substitute Wireless Instrument Maintainer from the year 1971 onwards he represented to the third respondent, who in his letter dt. 17/20-12-1975 directed the

Sr. Divisional Personnel Officer requesting him to issue necessary orders absorbing the applicant as Wireless Instrument Maintainer. Subsequently by order dt. 21.12.1976 i.e., Annexure A-10 the applicant was absorbed as Wireless Instrument Maintainer w.e.f., 17.12.1975 purporting to be under change of cadre. According to the applicant the above said order was only a paper order as there had been no change in the duties performed by the applicant from the inception of his service as Substitute Wireless Instrument Maintainer. The applicant was promoted thereafter as Wireless Instrument Maintainer Gr. II in the year 1979 and Wireless Instrument Maintainer Gr. I in the year 1980. The next higher post of Wireless Instrument Maintainer Gr. I is to the post of Master Craftsman in the scale of Rs. 1400-2300 (RSRP) which is not a selection post but one to be filled by seniority-cum-suitability. As the applicant seniority had been reckoned as a Wireless Instrument Maintainer only with effect from 17.12.1975, The applicant claims to have made representation for reckoning his seniority from the date of initial appointment as Substitute Wireless Instrument Maintainer. However as he did not get any response to the representation a fresh representation was made through the Union on 28.7.1986 requesting for reckoning the seniority of the applicant from the beginning of the cadre. As the representation did not evoke any response, subsequent representation/through recognised trade union were made and ultimately the Union was told by the General Manager that the question was once again examined in detail and that as the applicant was appointed as Substitute Wireless Instrument Maintainer for a period of 3 months from 13.11.1971 that he was continued

as a Substitute and appointed as a regular Wireless Instrument Maintainer by the order of the year 1976 w.e.f., 17.12.75, his claims for seniority from an earlier date cannot be acceded to. It is under these circumstances and aggrieved by the action of the respondents in not reckoning the seniority of the applicant from the date on which he was initially appointed as a Substitute that the applicant has filed this application.

3. We have heard Shri G.Ramachandra Rao, learned counsel for the applicant and also Shri V.Rajeswara Rao for Shri N.V.Ramana, learned counsel for the respondents. It is limited as to whether the facts presented by the applicant in this application deserves detailed deliberation after admitting the application or not. We have carefully perused the entire pleadings and the documents. The applicant is that the respondents should be directed to reckon his seniority from 19.12.71 or atleast w.e.f., 22.6.1972 when temporary granted status was in the cadre of Wireless Instrument Maintainer. The Annexure-8 is an order for the first time in the regular cadre by absorbing him, by order dt. 21.11.75 and the absorption was against 25% vacancies of direct recruitment quota reserved for skilled casual labour fitters. This order was issued after the trade test. Though the applicant had protested against the trade test, he appeared for the trade test and on that basis he was selected and absorbed. It is seen from other documents that the applicant made a representation that as he had been working as all along as Wireless Instrument Maintainer. It was not just to regularise him as a TCM and not as WIM. It is also borne out from the records.

that the Sr. OSTE had addressed to the Divisional Personnel Officer to consider the applicants absorption as WIM and that by order dt. 21.12.1976 (Annexure A-10) the applicant was appointed as Wireless Instrument Maintainer in the scale of Rs. 260-400(RS) with effect from 17.12.1975 by change of cadre. The documents on record show that till 21.11.1975 the applicant was working only as Substitute Wireless Instrument Maintainer and that it was only by Annexure-8 order that he was appointed on a regular basis. The case of the applicant through out the application as also in his representation had been that he has been working as Substitute Wireless Instrument Maintainer <sup>till</sup> ~~only~~ he was regularly appointed. It is settled that the seniority of an employee is to be reckoned from the date of his entry into the cadre. A person who works on work-charged post as a Substitute cannot be considered to be a member of the cadre. The claim of the applicant that he is entitled <sup>to</sup> reckon seniority from the date of his intitial entry as substitute does not appear to be well founded. However by order dt. 21st December 1976 the applicant was informed that he has been brought in the regular cadre of Wireless Instrument Maintainer in the scale of Rs. 260-400 with effect from 17.12.1975 by order of competent authority. The grievance of the applicant about he ~~was~~ being treated as a regular employee with effect from 17.12.1975 only arose on that date. It is contended on behalf of the applicant that the applicant has been going on making representation and that the representation did not evince <sup>reply</sup> ~~on behalf of~~ and the final <sup>reply</sup> received by ~~the~~ applicant was only Annexure A-15 dt. 27.9.1994 and therefore the application is well within time. We are not able to agree

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to this proposition. In annexure A-15 reply addressed to the General Secretary, SCRE Sansh what was stated was that in response to the representation made by the Union, the matter was again considered and that the claim of the applicant for seniority could not be acceded to. It clearly shows out that the matter had earlier been considered and decided that the applicant would not be entitled to reckon the seniority from the date he was appointed as substitute. The case of the applicant that he ~~was~~ been going on making representation and therefore the question of limitation does not arise is not tenable because it has been held in S.S. Rathore Vs State of M.P. AIR 1990 SC 10, that repeated unsuccessful representation not provided for in the service rule would not enlarge the period. As to be treated that the applicant's grievance arose in the year 1976 than as the grievance arose more than 3 years prayer to commencement of the Admn. Tribunals Act, this Tribunal has no jurisdiction to entertain an applicant on such a grievance. Hence on an overall consideration of the relevant facts at this stage we do not find ~~it~~ a fit case for admission and therefore this application is rejected under section 19(3) of the Admn. Tribunals Act, leaving the parties to bear their own costs.

(R. RANGARAJAN)  
MEMBER(ADMN.)

(A.V. HARIDASAN)  
MEMBER (JUDL.)

Dated : The 27th October 1994.  
Dictated in Open Court.

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Deputy Registrar (S)

Cont'd.

Typed by

Composed by

Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.M.HARIKANAN : MEMBER (J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER (J)

DATED: 27/10/94

ORDER/JUDGMENT.

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

in  
O.A.NO.1319/94.

T.A.NO.

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with Direction.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.

YELK

