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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A.No.1442 of 1994.

Date of Order - 14th October, 1997.

Between :

Mohammed Mujeebuddin, aged about 39 years,
Son of Mohammed Azzemuddin,
Sr. Ticket Collector,
South Central Railway (BG),
Secunderabad.

..... Applicant.

And.

1. Chief Personnel Officer,
South Central Railway,
Secunderabad.
2. Divisional Railway Manager (P),
South Central Railway (BG),
Sanchalan Bhavan,
Secunderabad.
3. B. Shankerji, aged about 40 years,
Goods Guard, South Central Railway (BG),
Secunderabad.
4. M. Sangamaiah, aged about 35 years.
Commercial Clerk,
South Central Railway,
Kannur.
5. Md. Majid, aged about 38 years,
Goods Guard, South Central Railway,
Bidhar Railway Station,
Bidhar, Karnataka State. Respondents.

Counsel for the applicant - Mr. P. Krishna Reddy

Counsel for the respondents 3 - 5 - None.

Coram :

Honourable Mr. R. Rangarajan, Member (Admn.)

Honourable Mr. B. S. Jai Parameshwar, Member (Judl.)

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ORAL ORDER.

(Per Hon. Mr. R. Rangarajan, Member (Administrative))

1. Heard Mr. P. Krishna Reddy for the applicant and Mr. V. Rajeswara Rao for the respondents 1 and 2. Notice has been served on respondents 4 and 5 and returned unserved on respondent No.3. All the private respondents were absent when the case was called for hearing.

2. The applicant in this O.A. while working as Ticket Collector in the scale of pay of Rs.950-1500/- applied for the post of Goods Guard in the scale of pay of Rs.1200-2040/- in response to the notification No. CP/673/P.11/Goods Guards dated 4.12.1992 (Annexure-1 to the OA). As per this notification, the Commercial Clerks/ Assistant Collectors in the scales of pay of Rs.975-1540/- / 950-1500/- were also eligible for consideration to the extent of 3% of the total number of vacancies. The applicant submits that his seniority vis-a-vis Commercial Clerks should be on the basis of para-320 of the Indian Railway Establishment Manual, Volume-I. If that rule is followed, then he will become senior to the Commercial Clerks and thereby he will rank senior to the private respondents 3 to 5. As the rule was not followed by ... Clerks and thereby he lost his chance for getting selected to the post of Goods Guard as per the notification dated 4.12.1992.

3. The applicant has represented his case for fixing his seniority above the private respondents 3 to 5; but that was turned down by the impugned letter No. CP/673/P.11/Gds. dated 24.10.1994 on the ground that the grade of Commercial Clerk is not the same nor is it equivalent to the grade held by the applicant and hence the applicant's case

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4. This O.A. is filed by the applicant for setting aside the impugned order dated 24.10.1994 and for consequential direction to the respondents 1 and 2 to promote the applicant as Goods Guard in pursuance of the notification dated 4.12.1992.

5. The main point for consideration in this O.A. is, whether the seniority between the Commercial Clerks in the scale of pay of Rs.975/- 1540/- and that of the Ticket Collectors in the scale of Rs.950-1500/- is to be determined on the basis of the length of continuous officiation in those grades or the grade of the Commercial Clerks should be treated higher to the grade above the Ticket Collectors in the combined seniority list.

Para-320 of the IREM Vol-I reads as follows :

INTERMEDIATE GRADE BELONGING TO DIFFERENT SENIORITY UNITS APPEARING FOR A SELECTION/ NON-SELECTION POST IN HIGHER GRADE.

When a post (selection as well as non-selection) is filled by considering staff of continuous service in the same or equivalent grade held by the employees shall be the determining factor for assigning inter-seniority irrespective of the date of confirmation of an employee with lesser length of continuous service. This is subject to the proviso that only non-fortuitous service should be taken into account for this purpose."

6. The posts of Commercial Clerks and Ticket Collectors are the entry grades in the Commercial Department of the Railways either by direct recruitment or through promotion from Grade 'D' staff. For some reasons, the scale of pay probably taking into account the work load and the intricacies of the job to be executed by them. Whether that higher scale of pay at the time of entry into the service

will give the weightage for showing them above the Ticket Collectors who had also entered into service by the same method of selection *is the point for consideration*.

7. In our opinion, the ~~clarification~~ required for posting as Ticket Collector or Commercial Clerk either by direct recruitment or by promotion from ~~Grade 'D'~~ staff is one and the same. There is no higher qualification fixed for posting them as Commercial Clerks. As stated earlier, due to intricacies of the work involved, the Commercial Clerks are given a higher starting pay compared to that of the Ticket Collectors. Even those who rank senior in the select list, while appointed to the ~~Grade 'C'~~ post, prefer to go to the post of Ticket Collector and hence if the Commercial Clerks are ranked senior to them that will be a ~~disadvantage~~ to those Ticket Collectors who are higher in the seniority list or in the common ~~select list~~ ~~seniority list~~.

seniority between the Commercial Clerks and the Ticket Collectors ~~Clerks~~ has to be read suitably so that both get the ~~seniority in~~ the integrated seniority list. If Rule 320 of the IREM is read in that view, then the total length of continuous service should be the criterion for fixing the seniority of the Ticket Collectors vis-a-vis Commercial Clerks. Hence we are of the opinion that the integrated seniority list of the Commercial Clerks and Ticket Collectors who had ~~continuous service~~ ~~length of service~~ on the basis of length of service in their particular grade and on that basis the integrated seniority should be

8. In the present case, the applicant is a Ticket Collector and the private respondents 3 to 5 are *TR* Commercial Clerks. Their inter se seniority should be

decided as per the length of continuous service either in the grade of Ticket Collector or in the grade of Commercial Clerk in accordance with Rule 320 of the IREM. If the applicant ranks senior to the respondents 3 to 5, then his case for posting as Goods Guard in pursuance of the notification dated 4.12.1992 should be considered in accordance with the rules. If he is found eligible, then his name should be interpolated in the panel of Goods Guards according to his length of service in the grade of Rs.950-1500/- along with the Commercial Clerks. If any of the juniors in the Commercial Clerks' grade are posted as Goods Guards, then the applicant should also be promoted on par with his juniors. He will be eligible for consequential benefits on that basis. If he is promoted to the post of Goods Guard on par with his juniors and ^{nationally he} his pay is accordingly fixed, ~~he~~ may be paid salary from the date when he actually discharged the duties of the Goods Guard. Time for compliance- Three months from the date of receipt of a copy of this order.

9. The O.A. is disposed of with the above direction.
No order as to costs.

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(B.S.JAI PARAMESHWAR)
MEMBER (JUDICIAL)

16.4.97

(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

Dictated in the open Court.

DJ/

A.M.
D.R.(S)

DA.1442/94

1. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager (P), South Central Railway (BG), Sanchalan Bhavan, Secunderabad.
3. The copy to Mr.P.Krishna Reddy, Advocate, CAT., Hyd.
4. One copy to Mr. N.V.Ramana, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

SRR

22/10/97
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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

THE HON'BLE SHRT A/S M(A) M(5) M(6)

Dated: 14/10/97

ORDER/JUDGMENT

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

in
D.A.NO. 1442/94

Admitted and Interim Directions
Issued.

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

None

YLR

II Court

