

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD BENCH

O.A.1488/94.

Dt. of Decision : 20-08-97.

Mohd.Niamatullah Khan

.. Applicant.

Vs.

1. The General Manager, SC Rly,
Sec'bad.

2. The Divl.Rly.Manager (P),
SC Rly, Hyderabad Division,
Sec'bad.

3. The Sr.Divl.Mech.Engineer,
SC Rly, Sec'bad.

.. Respondents.

COUNSEL FOR THE APPLICANT : Mr.S.LAKSHMA REDDY

COUNSEL FOR THE RESPONDENTS : Mr.V.RAJESWARA RAO,ADDL.CGSC.

CORAM:-

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

Heard Mr.S.Lakshma Reddy, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The applicant states that he had worked as Chargeman-B from 1981 to 1987 and he was reverted on 16-07-87 as Master 13-10-93 and he retired on 30-9-94. The applicant submits that he had completed two years of service as Chargeman-B for consideration to the promotion to the post of Chargeman-A. As the post of Chargeman-A was available for his promotion earlier to his retirement on 13-9-94 he should have been considered for promotion to the post of Chargeman-A. The applicant submits that he should have been promoted to the post of Chargeman-B after due selection w.e.f., 13-10-93 his pay should have been fixed under FR 22 C considering it as a promotion from the post of Master Craftsman though both the posts viz., Master Craftsman and Chargeman-B are in the same scale of pay.

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3. The applicant relies on the letter No.Y.M.226-Staff/ dt. 16-8-93 (Page-10 to the OA) to contend that he had been promoted as a Chargeman-B on adhoc basis w.e.f., 1-1-91 and hence he had completed two years of service as Chargeman-B for promotion to the post of Chargeman-A. The two years of eligibility is to be counted by consolidating the post held by him both on adhoc basis as well as regular basis if there is no break in between the two postings. He further submits that the above statement is in accordance with Rule 215 of IREM. He was informed by the impugned order No.P.535/R&M/MS dated 4-8-94 (Page-11 to the OA) that he cannot be considered for the post of Chargeman-A as he has not completed two years of service as Chargeman-B as he was promoted as Chargeman-B even on adhoc basis only w.e.f., 16-11-92 and that he will not be eligible for promotion to the post of Chargeman-A before his retirement and hence he will not be eligible for consideration of Chargeman-A before his retirement.

4. This OA is filed for setting aside the impugned proceedings No.P.535/R&M/MS dated 4-8-94 (Page-11 to the OA) and for a consequential direction to promote him as a Chargeman-A in the existing vacancy from the date he became eligible satisfying the minimum two years of service as per para-214 (c)/215(a) of the IREM. There is a second relief in this OA with regard to his pay fixation, when he was promoted on regular basis as Chargeman-A w.e.f., 13-10-93 from the post of Master Craftsman in the scale of pay of Rs.1400-2300/- by giving him the benefit of FR 22 C.

5. A reply has been filed in this OA. As per the reply the applicant was promoted even on adhoc basis as Chargeman only w.e.f., 16-11-92 and he was regularly selected to the post of Chargeman-B w.e.f., 13-10-93. Hence he cannot be promoted as Chargeman-A as he has not acquired the two years eligibility service before his retirement on 30-9-94.

6. It has been stated in the OA that plural reliefs cannot be asked for in a OA. As he is asking for the relief of fixation

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of pay under FR 22 C on his promotion on 30-10-93 from the post of Master Craftsman the same has to be held as non-maintainable. No other reason has been given in the reply for the refusal to grant the fixation of pay as prayed for by him.

7. In this connection we drew the attention the respondents counsel in regard to the second prayer. The same point came up for consideration on 5-12-94 whether the plural reliefs can be asked in this OA. It was held as follows:-

"The office is right in raising objection that the two reliefs claimed are distinct, two separate OAs have to be filed.

But there is a practice in AP High Court wherein such single Writ Petition is being entertained on additional Court fees being paid.

In the circumstances, register the OA if otherwise in order on payment of the additional court fees."

From the above it is clear that the above contention was considered at the initial stage itself by this Tribunal and had ordered that the two reliefs asked for in this OA is to be admitted and payment of separate court fees had to be levied for each prayer. As the applicant had paid the amount in view of the orders of this Tribunal we are left no other alternative except

in regard to the refusal of the respondents in fixing his pay in the cadre of Chargeman under FR 22 C, that relief has to be granted. The respondents nowhere stated in the reply that the post of Chargeman-B though in a same grade as Master Craftsman is not a post with higher responsibilities and duties compared to Master Craftsman. The only yardstick for fixation of pay under FR 22 C even in the same grade is on the basis of the discharge of higher duties and responsibilities when promoted to that post.

~~As stated earlier as there is no remark stating that the post of~~
Chargeman is not a post having higher responsibilities and duties compared to the Master Craftsman the respondents cannot escape the ordeal for fixation of pay of the applicant in accordance with FR 22 C when he was posted as Chargeman-B w.e.f., 13-10-93 from the post of Master Craftsman.


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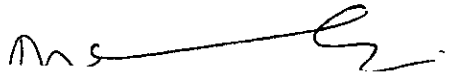
8. The first prayer of the applicant for promoting him as Chargeman-A was considered. The only document on which the applicant is relying for counting his service eligibility of 2 years for promotion to the post of Chargeman-A is on the basis of the letter dated 6-8-93. This letter is only an internal correspondence. This letter in no way gives a right to the applicant to state that he was promoted on adhoc basis as Chargeman-B w.e.f., 1-1-91. The respondents in their reply categorically stated that he was promoted as Chargeman-B on adhoc basis only w.e.f., 16-11-92. That statement is not controverted. Hence it has to be held that the applicant was promoted as Chargeman-B only w.e.f., 16-11-92 and that he had not completed 2 years of service as Chargeman-B, both the adhoc and regular service put together before his retirement on 13-09-94. Hence even if the post of Chargeman-A was available before his retirement, that post in view of the fact that he did not satisfy the requisite eligibility condition for promotion to the Chargeman-A. Hence this prayer has to be rejected.

9. In the result, the following direction is given:-

The pay of the applicant when promoted as Chargeman-B on 13-10-93 from the post of Master Craftsman has to be fixed on the basis of FR 22 C. He is entitled for consequential benefits on that basis. The applicant is not entitled for promotion to the post of Chargeman-A.

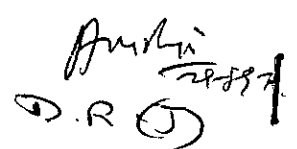
10. The OA is ordered accordingly. No costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 20th August, 1997.
(Dictated in the Open Court)

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D.R. (J)

29/9/97
TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 20/8/97

ORDER/JUDGEMENT

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

in

C.A.NO. 1488/94

Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

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