

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1552/94

DATE OF ORDER : 28-07-1997.

Between :-

S.Azamathulla Basha

... Applicant

And

1. Sr.Divisional Personnel Officer,
SCRlys, Guntakal.
2. Sr.Divisional Operating Manager,
SC Rlys, Guntakal.
3. S.Dilip,

... Respondents

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Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri V.Rajeshwar Rao, Addl.CGSC

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CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A) *Q*
an

(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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(Order per Hon'ble Shri H.Rajendra Prasad, Member (A)).

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Heard Shri G.V.Subba Rao, counsel for the applicant and Shri V.Rajeshwar Rao, counsel for the Respondents.

2. The applicant was promoted from Head Trains Clerk to Chief Trains Clerk on 22-12-1988. His pay was fixed at Rs.1,650/-. The Respondent No.3, Mr.S.Dilip, was junior to the applicant in the grade of Head Trains Clerk. However, the pay of the said Mr.Dilip was fixed at Rs.2,000/- whereas it was fixed at Rs.1,900/- in the case of the applicant although the latter was senior to him by 3 places in the divisional seniority list. Hence this O.A. The applicant represented to Respondent No.1 on 3-8-94 (Page-8 of the OA) praying for stepping up of his pay on par with that of his junior. The representation was turned down on the ground that the junior, Mr.Dilip, was continuously officiating as Chief Trains Clerk from 1.1.86 to 31-12-89 and that this adhoc officiating in the scale of Rs.1600-2660 (RSRP) was duly taken into consideration while fixing his pay whereas the applicant had not similarly officiated in a higher scale.

3. This OA is filed with a prayer to quash the impugned order (Page-7 to the OA) and direct the respondents to fix the pay of the applicant on par with that of his junior, Mr.Dilip, with consequential benefits.

4. The applicant submits that Mr.Dilip was irregularly promoted on adhoc basis ignoring his own (Applicant's) seniority para-216 A(1) of and such action cannot be sustained in the light of/ Indian

....3.

Railway Establishment Manual (Vol.I), which is as under :-

216.A.Ad hoc promotion against selection and non-selection posts :-

(1)Ad hoc promotions should be avoided as far as possible both in selection and non-selection posts, and where they are found inescapable and have to be made in the exigency of service, they should be resorted to only sparingly and only for a short duration of 3 to 4 months. The adhoc promotion should be ordered only from amongst senior most suitable staff. As a rule a junior should not be promoted ~~by-passing~~ ~~any~~ ~~senior~~ ~~staff~~

5. The respondents raise the plea of limitation on the ground ^{as long back as} that the adhoc promotion given to Mr.Dilip was in 1986. It is contended that the case is barred by limitation because the applicant should have claimed promotion as Chief Trains Clerk when Mr.Dilip was given such promotion.

The plea of limitation is not acceptable in view of the clear merit contained in the claim of the applicant. I am not inclined to throw out this case on ^{the} ^{technical} narrow plea of limitation when the claim is based on sound reasons and justification as per rules.

6. The applicant was posted at Gooty, away from the Division Head Quarters. Evidently it was not considered necessary to offer adhoc promotion to the applicant because Respondent No.3 was locally available. This action cannot be sustained. Both the officials i.e. the applicant and the Respondent No.3, are borne on common divisional gradation list and there is nothing like Station seniority for the purpose of adhoc promotions. It ^{was} necessary for the Respondent No.2 to have duly consider^{ed} the seniority of the applicant before granting adhoc promotion to Respondent No.3. That ^{it} was not done makes the action questiona^ble. Moreover, there is no reason why the adhoc promotion should have continued for a ^b period much beyond

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what is permitted by rules. Hence, fixing a higher pay to the Respondent No.3 on the ground that he was regularly selected in continuation of adhoc service has resulted in an un-intended injustice to the applicant himself.

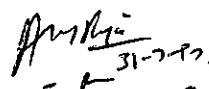
7. In the light of the discussion in the above paras, it becomes necessary to direct the Respondents to step up the pay of the applicant on par with the pay fixed in case of Mr.Dilip from the date he began drawing higher pay than the applicant. Consequential benefits, like arrears on account of difference in pay to be fixed and that actually drawn by him, shall be calculated and disbursed to the applicant within 90 days from the date of receipt of a copy of this order. Other incidental benefits like bonus etc, also shall be calculated and paid within 30 days thereafter.

8. Thus the O.A. is disposed of. No order as to costs.


(H. RAJENDRA PRASAD)
Member (A)

Dated: 28th July, 1997.
Dictated in Open Court.

avl/


31-7-97.
Deputy Registrar (D) ce.

O.A. 1552/94.

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To

SC Rlys, Guntakal.

2. The Sr.Divisional Operating Manager,
SC Rlys, Guntakal.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Mr. ...
6. One copy to D.R.(A) CAT.Hyd.
7. One spare copy.

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COURT

IN

TYPED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE
VICE-CHAIRMAN

and

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 28-7-1997

~~ORDER~~ JUDGMENT

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

in

O.A.No. 1552/94

T.A.No. (w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

