

(38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.
CA. No. 1604/94.

Date of order: 21-1-1996.

Between:-

1. G.S.N.Sarma
2. G.Apparae
3. T.Ramunaidu
4. Sk.Md.Hussain
5. P.Ramesh
6. B.Apparao
7. P.S.Naidu
8. P.Ch.S.Reddy
9. A.K.C.Kenedy
10. K.Baburao
11. P.Srinivasa Rao
12. N. Atchuta Rao

.... Applicants.

And

1. General Manager, South Eastern Rlys,
Garden Reach, Calcutta-43.
2. Divisional Railway Manager, South Eastern
Rlys, Visakhapatnam.
3. Senior Divisional Operating Manager,
South Eastern Rlys, Visakhapatnam.

... Respondents.

Counsel for the Applicant: Mr. Y. Subrahmanyam

Counsel for the Respondents, Mr. V. Bhimanna, SC for Rlys.

CORAM:

HON'BLE MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R. RANGARAJAN, MEMBER ADMINISTRATIVE.

JUDGMENT

(as per Hon'ble Sri R.Rangarajan, Member(Administrative))

Heard Sri Y.Subrahmanyam, learned counsel for the applicants and Sri V.Bhimanne, learned Standing Counsel for the respondents.

2. There are 12 applicants in this OA who are working as Signallers in various grades such as Junior Signallers, Senior Signallers etc. in the Wireless Station of Waltair Division of South Eastern Railway. The cadre of the Wireless Operators are controlled at the divisional level for Junior Signallers in the grade of Rs.260-430, Senior Signallers including Teleprinter Operators in the grade of Rs.330-560, Head Signallers/Telegraph Inspectors in the grade of Rs.425-640. The higher posts in the grade of Rs.550-750 and Rs.700-900 are controlled on zonal basis by the headquarters.

3. The Railway Board vide letter dt. 30.9.1975 bearing No.D.E.(NG)III-75/III/3/Pt. (page-11) had issued certain instructions in regard to the changeover of Wireless Telegraphy to Teleprinters over the microwave system and absorb surplus signallers elsewhere due to the said changeover. As per this letter, a ban was also imposed on recruitment of Wireless Operators which was already in force.

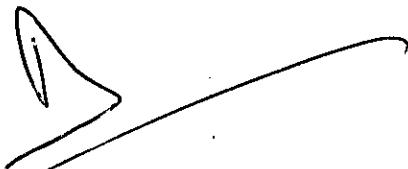
4. Railway Board issued instructions by letter dt.16.11.84 bearing No.PC/III/34/UPGR/9 (page-12) in regard to restructuring of Signallers category while issuing cadre restructuring orders for all the other Group 'C' and 'D' staff. As per the above said letter, the percentage in the category of

: 3 :

Junior Signaller, Senior Signaller and Head Signaller were fixed in the ratio of 35:45:25. On the basis of the instructions issued by the Railway Board for restructuring as on 1.1.1984, the revised pin-pointing of various posts of Waltair Division was issued by R-2 vide proceedings dt. 5.2.1987 bearing O.O.No/P.Cadre/Optg/Review (page-16). As per this memo, the total number of posts in Signallers' category was fixed as 52 (49 + 3 temporary posts of Teleprinter Operators) (page-17). But, the revision of cadre strength intimated on 5.2.1987 was superseded by the revised orders issued by R-2 with effect from 1.5.1985. The revised cadre shows 34 permanent posts of Signallers in various categories and 3 Temporary posts of Teleprinter Operators (page-18). There was a reduction from the earlier cadre strength due to shrinking of the cadre as a consequence of introduction of better communication facilities. In view of the fixation of Signallers cadre as 37 with effect from 1.5.1985 permissible percentage of Signallers' categories including the headquarters posts is indicated at page-21 of the material papers filed with the O.A. However, COPS who is the cadre controlling authority for the zonal Railway has issued a letter dt. 3.2.1989 for all the divisions. As per this letter, the total cadre strength of Waltair Division of Signallers is shown as 44 comprising of 37 posts physically available at the time of issue of the letter and 7 vacancies. In view of the instructions issued by COPS fixing the cadre strength of Signallers at Waltair Division as 44, the Signallers of the division submitted a representation to R-2 to take the total cadre strength of

indicating the total strength of the Signallers' category

...4/-



Signallers in Waltair division as 44 for the purpose of restructuring as on 1.1.1984 instead of taking cadre strength as 33. No reply is reported to have been given to the said representation.

5. In the meantime, Railway Board issued instructions for further restructuring of certain Group-C and D cadres of Railway with effect from 1.3.1993, by their letter dt. 27.1.1993 bearing No.PC III/91/CRC/1(page-31). As per this letter percentage of Junior Signallers, Senior Signallers and Head Signallers should be in the ratio of 30 : 40 : 25, and remaining 5% will be in the higher grades of Rs.1600-2660 and Rs.2000-3200 which are headquarters controlled posts. To effect the upgradation as on 1.3.1993 as per Railway Board letter dt. 27.1.1993, the division had taken the cadre strength as 35 posts of Signallers in various categories and made the distribution of higher grade posts on the basis of the revised percentage of cadre. It is also stated for the applicants that 8 posts of Signallers had been transferred to Waltair Division by the C.P.O. in terms of his memorandum dt. 19.7.1990 bearing No.80/90-91 (page-30). As per this memorandum 8 more posts of Signallers in the grade of Rs.975-1540(RPS) have been added to the cadre strength of Signallers. Thus, it is a case of the applicants that there should be 44 posts of Signallers existing at Waltair division at the time of restructuring as on 1.3.1993 and the restructuring has to be given as per the said total strength.

62

: 5 :

6. This OA is filed for a direction to the respondents to take the cadre strength as fixed by COPS conveyed under COPS letter dt. 3.2.1989 bearing No. P/L/11/4/1022/Signallers/Pt. (page-22) and Memorandum dt. 19.7.1990 bearing No. 80/90-91 (page-3) as the basis for implementation of restructuring of cadre with effect from 1.3.1993 and distribution of posts of various grades on that basis and for a further direction to promote the staff/applicants from the date they are due for promotion for higher grades of Signallers in various grades and payment of consequential differences of pay and allowances.

7. An additional affidavit dt. 4.12.1995 has been filed to show that the Signalling cadre is not a shrinking cadre and the posts of Junior Signallers are filled from time to time as can be seen from the posting orders issued during the period 1990 and 1991 enclosed to the additional affidavit.

8. This OA was filed on 6.12.1994. Though, more than an/year ~~is~~ elapsed, no counter has been filed by the respondents. Though the respondents were directed number of times to file a reply so as to dispose of this case quickly, till today no reply is filed. A direction petition dt. 22.8.1995 was filed by the applicants for an interim order to fill the vacancies of higher grades arising due to retirement, death, restructuring etc. by senior staff ~~so~~ as to avoid monetary loss to the Signallers working in the Waltair Division. Eventhough we issued notices to the respondents for filing a reply, no reply was forthcoming.

..6/-

: 6 :

In view of the urgency expressed by the applicant, with the available material on file and we thought it fit to dispose of this OA after hearing the oral arguments of the learned Standing Counsel.

9. The learned Standing Counsel submitted that the Railways have introduced sophisticated communication facilities through their microwave system such as FAX, Teleprinter Circuits etc. Because of the advent of the modern communication facilities, the wireless telegraphy is becoming extinct and hence there is need to reduce the Signallers category. Railway Board also had issued instructions from time to time to stop recruitment of Signallers and to absorb surplus Signallers in other categories so as to reduce the strength considerably. With this policy in view, the cadre strength of Signallers has been reduced from time to time as can be seen from the various amended cadre strength as indicated by various letters quoted above. The letter of COPS dt. 3.2.1989 bearing No. P/L/11/4/1022/Signaller/Pt. (page-22) is only a communication of cadre strength both physically available and the vacancies. Even as per the said letter dt. 3.2.89 there are only 37 posts physically available and 7 vacancies left unfilled as there ^{was} not enough work even for the 37 Signallers. The letter of Chief Personnel Officer dt. 19.7.1990 bearing No. 80/90-91 (page-30) cannot be taken as addition to strength, but the reasons for issuing that letter are not clearly understood as instructions are awaited in this connection. The restructuring as on 1.3.1993 as per Board's letter dt. 27.1.93 has been done taking into account the cadre strength as required at that time. But, it is submitted

64

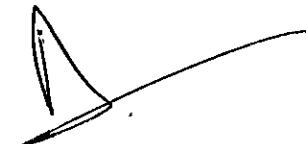
: 7 :

that even restructuring as per the admitted cadre strength has not been done as the necessity for abolition of Signallers posts is keenly felt due to reduction in workload. The learned Standing Counsel was not in a position to certify the exact cadre strength in the absence of any instructions.

10. There is no doubt that the cadre restructuring is essential to provide career opportunities to the staff. Whenever any restructuring orders are issued, it has to be implemented expeditiously. The zonal Railway cannot stand in the way of cadre restructuring thereby nullifying the beneficial orders given by the Railway Board to improve the career prospects of the staff. There can be no two opinions in regard to adherence of Railway Board's instructions in regard to cadre restructuring. Orders of cadre restructuring has to be implemented quickly so that the benefits reach the staff in time.

11. However, it cannot be said that the cadre restructuring should be done on the basis of some assumed cadre strength as in this case given by the C^OPS in his letter dt. 3.2.1989 (page-22), The cadre strength as indicated by C^OPS in his memo dt. 3.2.1989

..8/-



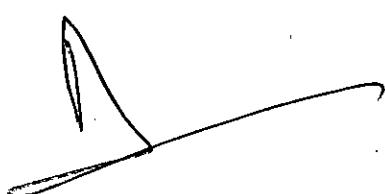
(65)

: 8 :

is over 7 years old. The OA was filed in Dec., 1994 after a lapse of 6 years from the cadre strength as announced by COPS. Hence, how far the applicants are right in insisting the cadre strength issued about 7 years back to be adhered to now? The cadre strength as intimated by COPS has undergone number of changes due to advent of better and effective communication systems. Hence, we do not see any reason for the insistence of the applicants to adhere to the cadre strength as given by COPS in his memo dt. 3.2.1989. A realistic cadre strength on the basis of the work-load has to be assessed under the present day conditions.

12. As stated earlier, the cadre strength has to be in accordance with work-load. No Government department can boost up the cadre strength just to give benefits to the staff. The realistic cadre strength in accordance with the work-load has to be calculated and to that cadre strength the restructuring as per the accepted percentages has to be implemented. If the department feels that the vacancies need not be filled up, nobody can force the department to fill up those vacancies just to create job opportunities. Even, the

..9/-



(b)

: 9 :

appointments made as Junior Signaller in the year 1981 which are annexed as annexures to the additional affidavit dt.

14.9.95, ~~as~~ for the purpose of accommodating the staff on compassionate grounds. Such welfare measures taken to help the families in need cannot go to the extent to come to a conclusion that the Signallers cadre is not a ~~perishing~~ one. R-2 after taking into consideration of all these points had fixed cadre strength as 35 for the purpose of restructuring the cadre as on 1.3.93. Even this cadre strength is not susceptible for verification by us as no approved cadre strength position has been given by the respondents. In the absence of any such reliable document we are not in a position to give a direction to restructure the cadre even to the assessed cadre strength as indicated by R-2 as above.

13. As the staff are complaining consistently for non promotion to higher grades and they are stagnated in the lower grade, we feel it necessary to give a direction to the respondents to effect the cadre restructuring orders as per available ^{actual} staff strength. Even if this is done, some of the staff, who are stagnating will get relief and this will go a long way to improve the career prospects of Signallers.

14. The learned counsel for the applicants rely on the judgment of Orissa High Court X 1976 SLJ 635 - Bimal Kumar Mohanty Vs. Secretary to Govt. of Orissa and anor. I to state that the order abolishing the posts with retrospective effect is invalid. A reading of the said judgment

: 10 :

will show that the Government has full right to abolish the posts and it is not open to the court/ to go beyond the wisdom of the decision and substitute its opinion/that of the Government as to whether the posts should or should not be abolished. In the present case, we do not see any retrospective operation of the order for abolition of posts. Every time the posts required has been assessed and restructuring orders are issued as per the assessed cadre strength. The order of C^WPS dt. 3.2.1989 (page-22) also shows that there are seven vacancies ~~xxxx~~ which are not filled and hence, the effective working strength ^{Cannot be taken as 44.} Hence, reduction in the strength of 44 at a later date cannot be held as abolition with retrospective effect. The present citation, in our opinion is not applicable in this case.

15. The next question arises as to what date the existing actual staff strength of Signallers have to be taken for determination of cadre restructuring as per Railway Board's letter dt. 27.1.1993. This OA as stated earlier was filed on 6.12.1994. As we are not sure of actual cadre strength of Signallers as on 1-3-1993, we feel that the actual staff strength as on

which is 1.12.1994 can be ~~kept~~ taken as the basis for the purpose the rational earliest of implementing the cadre restructuring as per Railway date before Board's circular dt. 27.1.1993.

...13/-

Copy to:-

1. General Manager, South Eastern Rlys,
Garden Reach, Calcutta-43.
2. Divisional Railway Manager, South Eastern
Rlys, Visakhapatnam.
3. Senior Divisional Operating Manager,
South Eastern Rlys, Visakhapatnam.
4. One copy to Mr.Y.Subrahmanyam,Advocate,CAT.Hyd,
45-58-7,Narasimha Nagar,Visakhapatnam-530 024.
5. One copy to Mr.V.Bhimanna, SC for Rlys,CAT.Hyd.
6. One copy to Library,CAT.Hyd.
7. One spare copy.

kku.

68

: 11 :

16. In view of what is stated above, a direction has to be given to the respondents to arrange to issue necessary restructuring orders for the actual number of Signallers on role as on 1.12.1994 and promote the staff as per the revised percentage fixed. As we have taken a later date for determining the actual number instead of 1.3.1993, it is fair to give arrears also to the staff from that date, instead of prospective date.

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

The respondents are directed to restructure the Signallers' category as per ratios indicated in Railway Board's letter dt. 27.1.1993 bearing No. PC III/91/CRC/1 on the basis of actual strength of Signallers on role as on 1.12.1994. The pay of these promoted to higher grade on the above basis has to be fixed as on 1.12.1994 and the arrears thereof also have to be paid with effect from 1.12.1994.

18. The above should be implemented within a period of four months from the date of receipt of a copy of this order.

19. The OA is ordered accordingly. No costs.//

me
(R. Rangarajan)
Member (Admn.)

Neeladri
(V. Neeladri Rao)
Vice Chairman

nd
Dated 22 January, 1996.

Amrit
Dy. Registrar (Jud.)

Grh.

OA. 1604/94

9/1/96

I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

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

Dated: 21-1-5
1996

~~ORDER/JUDGMENT~~

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

O.A.No.

1604/94

T.A.No.

(Ap.No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered Rejected.

No order as to costs.

No Space ^{COPY}

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH
- 8 FEB 1996
हृषीकेश नायक
HYDERABAD BENCH