

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION-NO.1045 of 1994

DATE OF ORDER:9th July, 1996

BETWEEN:

1. Syed Sabbir Hussain,
2. K.Gopal,
3. P.Appa Rao

.. Applicants

and

1. The General Manager,
South Central Railway,
Secunderabad,
2. The Chief Personnel Officer,
S.C.Railway, Secunderabad,
3. The Divisional Railway Manager (P),
S.C.Railway, Broad Gauge,
Secunderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI PVSSS RAMA RAO

COUNSEL FOR THE RESPONDENTS: Mr. C.V.MALLA REDDY, Addl.CGSC


CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE))

Heard Shri Anjaneyulu representing Shri PVSSS Rama Rao, learned counsel for the applicants and Shri C.V.Malla Reddy, learned standing counsel for the respondents.



2. There are 3 applicants in this OA. They were Yard Masters under R-3. They filed O.A.NO.303/86. In that OA they submitted that they joined as Traffic Apprentices in August 1979 and after training they were all appointed as Yard Masters at different stations. At the time of their appointment as Yard Master, the cadre of Station Master, Yard Master and Traffic Inspectors were of one category in the same seniority. On 1.10.84 a bifurcation ~~was~~ was made making the Yard Masters a separate category and Station Masters and Traffic Inspectors ^{as another} separate category. But that separation was made without calling for options from the applicants. Hence they filed OA 303/86 praying that they should be asked to give option to come over to the cadre of Station Masters/Traffic Inspectors as such option was not asked for in the year 1984 and on the basis of that option they should be posted in the proper category and further consequential benefits are to be granted to them in accordance with their option. That OA was disposed of by the order dated 22.2.90 with the following direction:-

"We, therefore, direct that the applicants herein be given an option to opt either for Yard Masters category or to the Station Superintendents/Traffic Inspectors category with effect from 1.10.1984 and such option will be deemed to have taken effect from the date when the cadre was formed i.e. 1.10.1984. The applicants will also be entitled for



consequential benefits as a result of such option. The benefits of option hereby given will be limited to the applicants to this case only."

It is stated that the direction in that OA has been complied with by getting their option for absorbing them in Station Masters/Traffic Inspectors category. As per ~~the direction~~ they were absorbed in Station Masters/Taffic Inspectors category but they were not given promotion with respect to their juniors in the seniority list of Station Masters/Traffic Inspectors. Hence they filed O.A.No.317/91 praying for their promotion with their respective juniors in the category of Station Masters/Traffic Inspectors. That OA was disposed of by the order dated 6.7.93 with the following direction:-

"In the result the respondents are directed to publish the result of the examination on the basis of the viva-voce conducted in regard to the applicants and if they will be selected they have to be given promotion w.e.f. the dates on which their respective juniors got promotion".

As per the direction given in the O.A.No.317/91 they were promoted on par with their juniors in the category of Station Masters/Traffic Inspectors but they were not given arrears with their respective juniors though their pay was notionally fixed on par with their juniors.



3. This OA is filed praying for a declaration that the action of the respondents in not granting arrears of pay in the scale of pay of Rs.2000-3200 (RSRP) from the date of the promotion to such scale under proceedings No.CP/535/P 11/SS-TIs dated 6.9.93 (Annexure 4) is arbitrary, illegal and against the settled law more the judgement passed in OA 303/86 dated 22.2.90 and for consequential direction to the respondents to pay the arrears of pay to the applicants from the date of promotion in the scale of pay of Rs.2000-3200 (RSRP) with interest.

4. The main contention of the applicants in this OA is that the judgement in O.A.No.303/86 directs the respondents to give the applicants consequential benefits if they opt for Station Masters/Traffic Inspectors category. As they have opted for Station Masters/Traffic Inspectors category, they should not only be posted in that cadre of Station Masters/Traffic Inspectors but they should also be promoted on par with their juniors and the arrears of pay in that promoted cadre have to be given from the date their junior was promoted to that cadre. As they were not given arrears because of the notional fixation of pay on par with their juniors, they are entitled to arrears from the date their juniors were promoted to the scale of Rs.2000-3200 in the category of Station Masters/Traffic Inspectors.

5. The learned standing counsel for the respondents submitted that they have not shouldered higher



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responsibilities in the scale of pay of Rs.2000-3200 and hence they are entitled for notional fixation only on par with their juniors from the date their juniors were promoted to the grade of Rs.2000-3200 and they will get actual remuneration on that basis from the date they actually started working in the category of Station Masters/Traffic Inspectors.

6. If the applicants feel that they are also entitled for promotion on par with their juniors and promotional arrears as contended by them as above, in view of the judgment in OA.303/86 they should have filed an M.A. for full implementation of ~~that~~ judgement when they did not get promotion and promotional arrears of pay from the date their juniors were promoted to the scale of Rs.2000-3200 in the category of Station Masters/Traffic Inspectors. Alternatively if they are aggrieved that the promotion and arrears have not been paid in accordance with the directions in the O.A.No.303/86 they could have filed a contempt petition for not implementing the orders of this Tribunal in that OA. They did not take recourse to any of the above courses of action available to them. Instead they filed a fresh OA No.317/91 praying for promotion on par with their juniors in the category of Station Masters/Traffic Inspectors. That OA was disposed of on 6.7.93 with a direction quoted above. They were promoted to the scale of Rs.2000-3200 on par with their juniors. But notional fixation of pay was only given to them in the higher grade and they were given actual



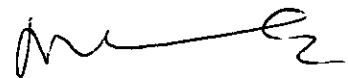
salary from the date they were posted to that grade in the scale of pay of Rs.2000-3200. O.A.No.317/91 was disposed of on 6.7.93. Hence the orders in that OA should have been implemented within three months from the date of finalisation of the OA and their pay should have been fixed on that grade within three months -----

disposal of the OA 317/91. If it is not done within ----- then the applicants are entitled for interest on their promotion arrears of pay if the same was paid three months after the disposal of the OA 317/91 till they were actually paid in that grade.


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

The applicants are entitled for interest on the arrears, if any, from 6.10.1993 on their promotion till the promotion arrears are paid to them.

8. The OA is ordered accordingly. No costs.


(R.RANGARAJAN)
MEMBER (ADMN.)

DATED: 8th July, 1996
Open court dictation.


Dy. Registrar (Jad.)

8/7/96
TYPED BY
COMPARED BY

DA-1615/94
CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED:

9/7/96

ORDER/JUDGEMENT

O.A. NO./R.A./C.P. NO.

O.A. NO.

1045/94

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

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