

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1067/94.

Dt. of Decision : 17-03-98.

1. S.Nalla Muttu
2. C.J.Zacharias
3. P.Naveen Kumar

.. Applicants.

Vs

1. The Union of India rep. by
General Manager, SC Rly,
Rail Nilayam,
Sec'bad.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Sec'bad.
3. The Divl. Rly. Manager,
SC Rly, Guntakal.
4. A.G.Venkatesan
5. E.Manavalan
6. V.M.Krishnan Unni
7. G.Venkatesh
8. B.Raja Reddy



.. Respondents.

Counsel for the applicants : Mr.G.Ramachandra Rao

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CGSC.
for R-1 to R-3.

Mr.V.Venkateswara Rao
for R-4 to R-7.

CORAM:-

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

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

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he continues to work as Assistant Station Master in Guntakal Division. The respondent No.7 appeared in 1990 for selection to the post of Traffic Apprentice and was empanelled in that selection by the order dated 9.11.90. Even though he continued to work in the Assistant Station Master's category and never worked as Section Controller at any time, by the order dated 21.10.93 he was ^{shown as} promoted as Deputy Chief Controller.

4. In view of the above, all the applicants pray for showing them above the respondents 4 to 8 in the cadre of Section Controller and in the higher grades in that hierarchy. They submit that absorbing the respondents 4 to 8 as Traffic Apprentices in the Departmental Quota and reallotting them as Section Controllers and giving them the proforma promotion as Deputy Chief Controller in the grade of Rs.2000-3200 with effect from 5.5.90 is irregular. They submitted representation in this connection by a joint representation dated 30.9.93 which was rejected by the letter dated 7.12.93 (Annexure 11 at page 35 to the OA) on the ground that the respondents 4 to 8 were reallotted to the Deputy Chief Controllers' cadre and given seniority above the applicants in view of the judgment of this Tribunal in OA 474/90 decided on 16.6.93.

5. This OA is filed to set aside the proceedings No.G.P.99/I/2/Vol-VI dated 21.10.93 (Annexure 7 at page 24 to the OA), or in the alternative direct the respondents 1 to 3 herein to promote the applicants as Deputy Chief Controller with effect from 5.5.90 with all consequential benefits including arrears of pay declaring that the

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examination against 25% quota (15% for direct recruitment and 10% for departmental employees) earlier to the respondents 4 to 7, they cannot be shown as juniors ^{to} them.

3. The applicants further submit that the 4th respondent though selected under the Limited Departmental Competitive Examination (LDCE) and empanelled for Traffic Apprentices against 10% quota, he was posted as Assistant Yard Master. Only in the year 1990 he was promoted as Section Controller against 20% quota from the category of Assistant Yard Master. He was promoted as Deputy Chief Controller from 22.12.1992. The respondents 5 and 6 who were working as Assistant Station Masters were selected in the year 1984 as Traffic Apprentices against the 10% departmental quota under LDCE and empanelled on 1.10.84. They were also absorbed as Assistant Yard Masters as per the memo dated 11.1.88 issued by the 3rd respondent. While they were working as Assistant Yard Masters, they were selected in the year 1990 for the post of Section Controllers and posted as Section Controllers by the order dated 25.7.91. The respondent No.5 did not join the post of Section Controller but he continued to work till today as Instructor in the Zonal Training School, South Central Railway at Maulali. The respondent NO.7 while working as Assistant Station Master was selected against 10% quota of LDCE in the year 1984 for appointment as Traffic Apprentice and he was posted as Assistant Station Master at Guntakal Division on 31.12.87. The Respondent NO.7 never applied for selection for promotion to the post of Section Controller and hence he was never selected for promotion as Section Controller nor Deputy Chief Controller. Till today

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Masters. ~~But~~ Shri Raja Reddy ^{though} even/ junior most among all
 the four in the panel for the post of Traffic Apprentice, he
 was given preferential treatment of allotting to the cadre
 of Section Controllers whereas their seniors Respondents 4
 to 7 ^{herein} were allotted to the cadre of Yard Masters/Station
 Masters. That allotment of the 8th respondent to the cadre
 of Section Controllers and the other Respondents 4 to 7 to
 the cadre of Yard Masters/Station Masters was against the
 instructions of the CPO vide No.P(Trg)563/Tfc/App. dated
 20.7.84 (Annexure IV at page 11 to the reply). Hence, all
 of them filed the said OA 474/90 for reallotting them to
 the cadre of Section Controllers, as their junior namely
 Respondent NO.8 herein was posted as Section Controller
 initially itself, and for further promotion as Deputy Chief
 Controllers on par with their junior i.e, Respondent No.8
 herein. A perusal of the judgment in that OA clearly
 indicates that the respondents in that OA had accepted the ^{mistake}
 allotment of Shri Raja Reddy as Section Controller but in
 view of filing of the OA 183/88 by Shri Raja Reddy the
 mistake could not be rectified. Consequently, the
 competent authority decided to continue Shri Raja Reddy,
 Respondent No.8 herein, as Section Controller since he had
 by then continuously worked as Section Controller right
 from 1987 and gained valuable experience and knowledge. As
 Shri Raja Reddy became eligible to the post of Deputy Chief
 Controller in the grade of Rs.2000-3200, he was also
 promoted to that post on 5.5.90. The judgment in OA 474/90
 does not indicate that Shri Raja Reddy, Respondent No.8
 herein, should be reallotted to some other cadre other than
 the Section Controllers' cadre and the judgment directed
 the respondents to allot the applicants therein namely

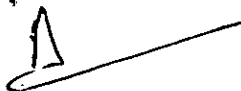
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applicants are seniors to the Respondents 4 to 8 in the category of Section Controllers and Deputy Chief Controllers.

6. The respondents submit that the seniority of the Respondents 4 to 7 was given on par with that of Shri B.Raja Reddy, Respondent No.8 herein, in the cadre of Section Controllers and they were given the proforma promotion also on par with the Respondent No.8 in view of the judgment of this Tribunal in OA 474/90 decided on 16.6.93 and that was issued by the impugned order dated 21.10.93 (Annexure 7 at page 17 to the reply). Hence the question of showing the seniority of the applicants above the Respondents 4 to 8 does not arise and in case they are aggrieved of their seniority, their remedy lies only in filing a review petition to review the judgment in OA 474/90.

7. The respondents 4 to 7 filed OA 474/90 on the file of this Bench. They submitted in that OA that they were also qualified in the selection to the post of Traffic Apprentice in the scale of pay of Rs.425-640 against the Departmental quota on the basis of the selection held on 14.6.84 to 19.9.84 vide CPOs letter NO.P(T)99/DQ/TA/Vol-II dated 1.10.84 (Annexure II at page 9 to the reply). As per that panel, respondents 4 to 7 were placed above the 8th respondent. All the private respondents 4 to 7 and Mr.Raja Reddy, Respondent No.8 herein, were allotted to Guntakal Division. Shri Raja Reddy was allotted to the cadre of Section Controllers whereas the respondents 4 to 7 were allotted to the cadre of Yard Masters and Station



against the cadres of controllers/SMs/YMs/TIs according to the allotment communicated by the Hd.qrs. Divisions cannot repeat or can not deviate from this rule under any circumstances. In case any change is required to be made in the allotment made by Hd.qrs, their prior approval should be obtained. The apprentices absorbed in regular posts shall advance in their own cadres in which they are posted. No change of cadre shall be permitted except in very exceptional cases. Here too, it will be necessary to obtain the prior approval of the Hd.Qrs office."

As Shri Raja Reddy was junior in the select panel of Traffic Apprentices issued on 1.10.84, he should not have been allotted to the cadre of Section Controllers. As he was erroneously allotted to the Section Controllers' cadre contrary to the CPO's circular dated 30.7.84, the seniors in that select list namely Respondents 4 to 7 herein filed OA 474/90. Due to the direction in that OA, Respondents 4 to 7 were shown senior to Shri Raja Reddy namely Respondent 8 herein, while reallotting them to the cadre of Section Controllers and they were promoted on that basis to the higher grades also.

10. From the above appreciation, it is clear that the Respondents 4 to 8 were empanelled to the post of Traffic Apprentice in the scale of pay of Rs.425-640 against 10% departmental quota way back on 1.10.84 as per the select list NO.P(T)99/dq/TA/Vol.II dated 1.10.84 (Annexure-II at page 9 to the reply). The respondents 4 to 7 being seniors to the respondent No.8 in the select panel of 1.10.84, they

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also
 respondents 4 to 7 herein /to the cadre of Section
 Controllers with effect from the date their junior namely
 Shri Raja Reddy, Respondent 8 herein, was allotted to that
 cadre and the consequential promotion was also directed to
 be given in accordance with -

8. In view of the above judgment, Respondents 4 to 7
 were reallocated to the cadre of Section Controllers and
 given further promotion as Deputy Chief Controllers and
 their pay was fixed in that cadre in terms of the impugned
 proceedings dated 21.10.93 (Annexure VII to the OA).

9. As per the avenue chart for promotion, 25% of the
 posts of Traffic Apprentices are to be filled by selection.
 Out of 25%, 15% is earmarked for direct recruitment and 10%
 is earmarked for the departmental employees through LDCE.
 Once they are selected for the post of Traffic Apprentices
 against the departmental quota, they are subjected to
 training and then allotted to the cadres of Section
 Controllers and Station Masters and Yard Masters.
 Normally, senior most in the select panel has to be posted
 as Section Controller. The marks obtained in the
 examination after training is not ^{the} criteria for fixing the
 seniority of the applicants. The interse seniority remains
 intact as per the select panel of Traffic Apprentices.
 This fact is evident from the letter of the CPO No.
 P(Trg)563/Tfc/App. dated 30.7.84 (Annexure-IV at page 11 to
 the reply). The relevant portion of that letter reads as
 below:-


"While posting traffic apprentices, the
 divisions shall strictly post them

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senior^{||} to those borne in the later panel. The applicants 1 to 3 were borne on the panel of Traffic Apprentices and posted as Section Controllers later than the respondents 4 to 8. Hence the applicants cannot ask for seniority above that of the respondents 4 to 8.

11. The applicants submit that the respondent No.5 is not working as Section Controller but he continues to work as Instructor in the Zonal Training School at Maulali. The respondents in their reply submit that the 5th respondent is working on deputation in an ex-cadre post and hence his lien is maintained in the cadre of Section Controllers. Thus there is no irregularity in retaining the lien of the 5th respondent in the cadre of Section Controllers as he is working in an ex-cadre post now. Though the applicants submit that the 7th respondent never worked as Section Controller at any time, it is for the Department to decide where to utilise his services. If the 8th respondent discontinues his lien by giving a ~~expressed~~ letter to that effect, then the respondents may consider deletion of his name from the category of Section Controllers in accordance with the rules. But the applicants cannot get seniority above the 7th respondent just because he is away from the duties of the Section Controller.

12. From the above discussion, it is evident that the respondents 4 to 8 were borne in the select panel of ~~the~~ reallotted to the cadre of Section Controllers on par with the respondent No.8 as the Respondent NO.8 was initially posted as Section Controller though he was not senior to



were reallotted as Section Controllers from the date Shri Raja Reddy was posted as Section Controller i.e, in the year 1988. Hence we do not see any irregularity in allotting Respondents 4 to 8 to the cadre of Section Controllers way back in the year 1988 in view of the select list dated 1.10.84. That select is much earlier than the select list of the applicants 1 to 3 as Traffic Apprentices against 20% ~~xxxxxx~~ quota. The applicant No.1 joined as Traffic Apprentice in South Central Railway through Railway Recruitment Board in the year 1986 and after successfully completing three years, he was allotted to the Controllers' cadre in Guntakal Division by the proceedings dated 7.7.89. The applicant No.2 who was working as Goods Guard was selected for promotion to the post of Section Controller in the scale of pay of Rs.1400-2600 in the year 1990 and was empanelled as per the proceedings dated 23.11.90 and he was posted as Section Controller from 29.11.90. The applicant No.3 while working as Assistant Station Master was selected for promotion to the post of Section Controller in the scale of pay of Rs.1400-2600 in the year 1990 and thereafter posted as Section Controller. Thus from the above details, it is evident that the applicants 1 to 3 were empanelled for Traffic Apprentice much later than the respondents 4 to 8 and they were also posted as Section Controllers later than the respondents 4 to 8. As per the Railway Board's letter No.E(NG)57/MP 1-24 dated 8.10.54, ~~xx xx~~ " among the selected candidates the panel order will determine the seniority for the purpose of promotion. Men borne in an earlier panel will be deemed

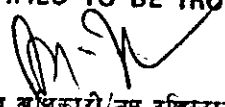
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the respondents 4 to 7 in the select panel dated 1.10.84 and that posting of the respondent No.8 (Shri Raja Reddy) as Section Controller was found to be contrary to CPO's ~~xxxxxxxxxxxxxx~~ letter dated 30.7.84. Hence the direction in OA 474/90 was implemented by the official respondents by reallotting the respondents 4 to 7 to the cadre of Section Controllers and placing them above that of Shri Raja Reddy (Respondent No.8 herein) in that cadre. Thus it has to be held that all the respondents, namely, respondents 4 to 8 came to the Section Controllers' category much earlier than the applicants herein and the respondents 4 and 8 having borne in the earlier panel for the post of Section Controller shall be deemed to be senior to the applicants herein who were borne in the later panel.

13. In view of the reasons stated above, we find that there is no reason to allow this application by granting the relief of treating the applicants as senior to the respondents 4 to 8. In that view, the application is to be dismissed as having no merit and accordingly it is dismissed. No order as to costs.

प्रमाणित प्रतिलिपि
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स्वायात्तव अधिकारी/उप रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याच
HYDERABAD BENCH