

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH 28
AT HYDERABAD

ORIGINAL APPLICATION NO. 612 OF 1995

DATE OF ORDER : 15-6-1998

BETWEEN :

V.R. JANARDHAN

... APPLICANT

AND

1. Divisional Railway Manager,
Hyderabad (MG) Division
South Central Railway
Secunderabad.

2. Divisional Commercial Manager
Hyderabad (MG) Division,
South Central Railway
Secunderabad.

... RESPONDENTS

COUNSEL FOR THE APPLICANT : SHRI G.V. SUBBA RAO

COUNSEL FOR THE RESPONDENTS : SHRI V. RAJESWARA RAO

CORAM :

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

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

(Order per Hon'ble Shri R. Rangarajan, Member (A))

Heard Shri G.V. Subba Rao for the Applicant and
Shri V. Rajeswara Rao for the Respondents.

The Applicant in this O.A, while working as
Inspector in the scale of pay of Rs. 1400 - 2300, was
punished with stoppage of increment for 2 years in the
year 1991. That punishment, it is stated, had expired on
17-6-1993. The Applicant submits that he should have been
promoted in the vacancies that had arisen in the scale of
pay of Rs. 1600 - 2660/- after the punishment of stoppage
of increment was over. The Applicant was also given another
punishment of withholding of increment for one year, but

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that was subsequently withdrawn. Hence, effectively there was no punishment after the expiry of the first punishment on 17-6-1993. His only contention is that his juniors were promoted ignoring his seniority. He has named one promoted Shri Sangameswara Rao, who is his junior and who has been / overlooking his seniority. Though the Learned Counsel for the Applicant submits that there were a plenty of juniors promoted, no names or the dates of ^{their} promotion has^{ve} been indicated in this OA. The Applicant submitted a representation on 14-2-1995 through the South Central Railways Mazdoor Union for his promotion. That representation was replied by letter No. YP/529/Tkt.Chg/Restg/93 dated 22-2-1995 (page 7 of the O.A.) stating that the Applicant is second in the seniority position and he will be considered for promotion as T.T.I in his turn on assessing his suitability when the vacancy arises. That would mean that there was no vacancy to promote him at that time and also his turn has^d not come for promotion and when his turn comes he will be promoted. The Applicant retired in February, 1995, i.e., on 28-2-1995, 6 days after the issue of the impugned order.

This O.A is filed for setting aside the impugned letter No. YP/529/Tkt.Chg/Restg/93 dated 22-2-1995 regarding his promotion to the post of T.T.I in the grade of Rs. 1600 - 2660 by declaring it as arbitrary, illegal and unconstitutional and for a consequent direction to the Respondent to promote him to the post of T.T.I on the date on which he became entitled, with all consequential benefits.

It is an admitted fact that the Applicant was undergoing punishment till 17-6-1993. Hence till then the Applicant ^{Could} cannot be promoted as promoting an official undergoing punishment will mean premium on the inefficiency.

Shri Sangameswara Rao who is reported to be his

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junior was promoted to the grade of T.T.I on 1-3-1993, as stated by the Applicant himself in para 6 of the O.A. The said official even if junior can be promoted w.e.f., 1-3-1993 ignoring the case of the Applicant, as he was under ^{-going-} punishment on that date. The Applicant has not quoted other juniors and the vacancy which arose after 17-6-1993 when the reported other juniors were promoted in his O.A. He only submits that there were plenty of juniors promoted without quoting any name. Such an assertion cannot be accepted.


statement

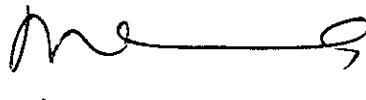
In the reply/the Respondents in para 7 submit that the Applicant was considered for promotion for the post of T.T.I. against the vacancies which arose on 1-3-1993, but he was not found suitable. It is not understood as to why the Respondents considered him for promotion for vacancies which arose on 1-3-1993 when it is an admitted fact that the Applicant was undergoing punishment on that day. This shows that the Respondents acted without following the rules. Such an action on the part of the Respondents has to be de-grievances subsequently. We advise the Respondents to act carefully in future to avoid unnecessary creation of problems. We would also go to the extent of saying that R-1 should examine this issue to see whether any irregularity has been committed by the officials who considered him for promotion for the vacancies which arose on 1-3-1993.

In the reply it has been stated in para 8 that three officials were promoted vide O.O No. 19/Tkt.Chg./TTI/94 dated 21-4-1994 and it is also stated that they ^{were} are seniors to him. As observed earlier, the Applicant has not made out any case in regard to his juniors who were promoted after the expiry of his punishment on 17-6-1993.

It is also insisted that the post of T.T.I in the scale of pay of Rs. 1600 - 2660 is a non-selection post and candidates in the ratio of 1 : 1 are considered and the Applicant could not be considered as there were no vacancies. It was also denied by the Respondents that in regard to promotion of his juniors till the date of his retirement. We have no other alternative except to accept the above submission of the Respondents, as no rejoinder has been filed to the reply, contrary to what has been stated in the reply affidavit. 70

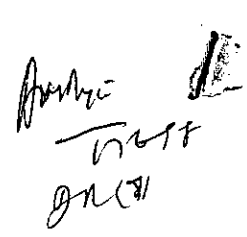
In view of the above, we find that the Applicant has not made out a case for the relief sought for. Hence the application is liable only to be dismissed and accordingly it is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (J)
15.6.98


(R. RANGARAJAN)
MEMBER (A)

DICTATED IN THE OPEN COURT

DATED : 15-6-1998


JN(7)

DA.612/95

Copy to:-

1. The Divisional Railway Manager, Hyderabad (MG) Division, South Central Railway, Secunderabad.
2. The Divisional Commercial Manager, Hyderabad (MG) Division, South Central Railway, Secunderabad.
3. One copy to Mr. G.V. Subba Rao, Advocate, CAT., Hyd.
4. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

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29/6/98
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COMPARED BY



II COURT

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED:

15/6/98

~~ORDER/JUDGMENT~~

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

in

O.A.NO.

612/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

