

(46)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.730 of 1995

DATE OF ORDER: 6th March, 1998

BETWEEN:

1. B.SOMESWARA RAO,
2. K.V.SUDHAKAR,
3. V.VENKATESWARA PRASAD. .. APPLICANTS

AND

1. The Divisional Railway Manager,
South Central Railway,
Vijayawada,
2. The General Manager,
S.C.Railway, Secunderabad,
3. Union of India rep. by the Secretary,
Railway Board,
New Delhi. .. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.B.NARASIMHA SHARMA

COUNSEL FOR THE RESPONDENTS: Mr.V.Bhimanna, Addl. CGSC

CORAM:

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

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

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Jacob for Mr.B.Narasimha Sharma, learned counsel for the applicants and Mr.V.Bhimanna, learned standing counsel for the respondents.

2. There are three applicants in this OA. While they were working as Head Signallers, they were given option to opt for the following posts:-

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1. Goods Guards in the scale Rs.1200-2040 (RSRP)
2. Comml. Clerks in the scale Rs. 975-1540 (RSRP)
3. Ticket Collectors " Rs. 950-1500 (RSRP)
4. ECRC " Rs.1200-2040 (RSRP)
5. Office Clerks " Rs. 950-1500 (RSRP)

The applicants opted for Office Clerk in the scale of pay of Rs.950-1500. The above option was called for as Signaller category has become surplus. The applicants were posted as Office Clerks in the scale of pay of Rs.950-1500 in the Works Branch of Vijaywada Division.

3. The applicants submit that in the other divisions such surplus candidates had been posted in the equivalent grade and hence issue of the impugned order No.B/P.535/VII/5/Vol.III(P) dtd 18.7.94 (Annexure VI at page 19 to the OA) posting them as Junior clerks is irregular. They should have been posted in the equivalent grade protecting their pay and that their promotions on the basis of the seniority in that grade should also be given.

4. This OA is filed to set-aside the impugned order No.B/P.535/VII/5/Vol.III(P), dated 18.7.94 (Annexure VI at page 19 to the OA) and for consequential direction to the respondents to protect their grade and seniority at the time of redeployment as Head Signallers with all consequential benefits.

5. It is well established fact that the applicants were asked to give option to come over to the other grades as per the letter No.B/P.135/Surrender/Signaller dated 21.1.94 (Annexure I at page 8 to the OA). One of the posts for which option was called for was Office Clerk. All the three applicants in this OA knowing the implications had

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opted for the post of Office Clerk. In case they ^{were} ~~are~~ not willing to opt, they should have given their refusal letter and requested the respondents to continue them as Head Signallers or redeploy them in the other posts which ^{were} ~~are~~ equivalent to the Head Signallers protecting their seniority in the transferred cadre and also pay. But the applicants accepted the letter dated 21.1.94 and got themselves transferred as Office Clerks by giving options to that grade. Having given the option and getting themselves posted as Office Clerks, it will not be in order to protest the order dated 18.7.94 whereby they were posted as Office Clerks. Having submitted themselves to the notification of the respondents calling for options, they cannot escape from the consequences of that. Hence the question of setting aside the impugned order dated 18.7.94 does not arise.

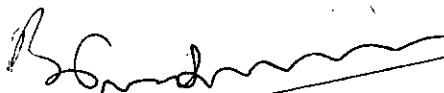
6. The learned counsel for the applicants fairly submitted that he is only requesting for accommodating them in a better scale. In this connection, he submitted that there are number of posts of Inquiry-cum-Reservation Clerks in the scale of pay of Rs.1200-2040 which is ^a direct recruitment cadre ~~are available~~ and they cannot appear when notification for direct recruitment is issued as they are over-aged. But there is a channel of promotion to the grade of ECRC from the lower grade of Commercial Clerks. Hence he requests that a direction may be given to consider them for posting them as ECRC against the promotion quota earmarked for Commercial Clerks.

7. The feeder category for promotion to the post of ECRC is Commercial Clerk. The applicants are not

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Commercial Clerks. Hence if any direction is given to consider them for posting them as ECRC, it will be violation of the avenue chart. Hence such a direction, in our opinion, cannot be given. However, the applicants can ask for change of the category from the post of Junior Clerk/Office Clerk to that of the Commercial Clerks. If their request is accepted and they are posted as Commercial Clerks, then they will be placed in the feeder category for the post of ECRC against the promotion quota earmarked for the Commercial Clerks. But, for change of the category, they have to submit a representation to the concerned respondents. If they submit a representation for change of the category from Junior Clerks to Commercial Clerks, then the concerned respondents may consider the same sympathetically as they have been posted as Office Clerks from the higher grade of Head signallers and thereby both their pay and promotional prospects are affected.


7. With the above observation, the OA is disposed of.
No order as to costs.

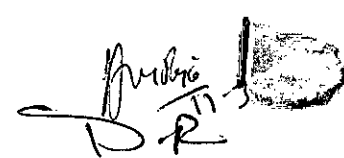

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

6.3.98

Dated: 6th March, 1998
Dictated in the open court.

vsn


(R. RANGARAJAN)
MEMBER (ADMN.)


D.R.

DA.730/95

Copy to:-

1. The Divisional Railway Manager, South Central Railway, Vijayawada.
2. The General Manager, South Central Railway, Secunderabad.
3. The Secretary, Railway Board, New Delhi.
4. One copy to Mr. B.Narasimha Sharma, Advocate, CAT., Hyd.
5. One copy to Mr. V.Bhimanna, Addl.CSBC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

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TYPED BY
COMPARED BY

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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 6/3/98

ORDER/JUDGMENT

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

in

O.A.NO. 730/95

ADMITTED AND INTERIM DIRECTIONS.
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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| केन्द्रीय प्रशासनिक न्यायालय Central Administrative Tribunal |
| प्रेषण / DESPATCH |
| 17 MAR 1998 |
| हैदराबाद न्यायपीठ HYDERABAD BENCH |