

(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
HYDERABAD

O.A.NO.1221/95

Between:

Date of Order: 21.3.96.

M. Balachandra Pillai

...Applicant.

And

1. The Chief Administrative Officer,  
(Construction). South Central Railway,  
Sanchalan Bhavan, Secunderabad.
2. Divisional Railway Manager, (MG),  
South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.
3. The Divisional Engineer, (Construction)  
-IV, South Central Railway,  
Secunderabad.
4. Assistant Engineer, (Construction)  
IV, South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.
5. The Depot Store Keeper, (Construction)  
I, South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.

...Respondents.

Counsel for the Applicant : Mr. P. Krishna Reddy

Counsel for the Respondents : Mr. N. R. Devraj, Sr. CBSC.

CORAM:

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

contd.

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O.A.No.1221/95

Date of Order: 21.3.96

J U D G E M E N T

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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This OA is filed praying for setting aside the order passed by the Depot Store Keeper (Construction-I) S.C.Railway, Secunderabad No.DSK/7, dated 20.9.95 whereby he was relieved on the afternoon of that date with instruction to report to the office of PWI/HNL by holding it as illegal and without jurisdiction.

2. The applicant while working as HSK-II on casual basis under IOW Construction, S.C.Railway in Bridge Erection work was transferred after screening him for the post of regular Khalasi and posted under PWI, HNL vide DRM, Hyderabad MG/Sis Lr.No.YP/E/416/Pccs dated 9.8.91. This impugned order was challenged in OA.1018/91.on the file of this Bench. That OA was dismissed on 9.1.92. The SLP filed thereon was also dismissed on 9.8.92. The applicant did not join duty for about 3 years due to his health condition and he joined back in his earlier place of working i.e. under IOW/Construction in Bridge Organisation on 3.9.95. It is stated that he was permitted to join duty and he was posted as a casual labour HSK-II in that unit. But by the impugned order dated 20.9.95 he was relieved to join PWI HNL as per the original order dated 9.8.91 of R2. Aggrieved by the above relief order he has filed this OA.

3. The main contention of the applicant is that he has to be regularised only in skilled category and not in unskilled category.

4. When he was posted in unskilled category in regular cadre by the order of R2 dated 9.8.91 he questioned the same



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and filed OA.1018/91 on the file of this Bench. The same was dismissed and SLP thereon was also dismissed. From the above narration it is clear that the applicant questioned the authority for posting him <sup>in</sup> unskilled category and transferring him to the other unit. It can be deduced from the above contention that the applicant wanted to be continued in skilled category and did not want to be posted in unskilled category even if it is in regular capacity. If so he could have given in writing refusing his regularisation in unskilled category. But he did not do so and approached this Tribunal by challenging the transfer order issued by R2 dated 9.8.91. The office order dated 20.9.95 which is now impugned in this OA is a continuation of the order issued by R2 dated 9.8.91. When that order of R2 dated 9.8.91 transferring him to other unit in unskilled category has been upheld by this Tribunal the applicant cannot question the subsequent orders which only relieves him on the basis of the order issued by R2 dated 9.8.91. Hence assailing the relief order dated 20.9.95 issued by R5 is untenable and hence the order of R5 dated 20.9.95 had to be upheld.

4. When the applicant reported back to his original place of work after he had recovered from sickness he was taken back as a skilled staff in that unit. The learned counsel for the applicant produced the muster roll to show that the applicant was engaged in his original unit in skilled category and hence he cannot be relieved to join under PWI HNL. No rule or instruction to substantiate the above condition was produced. When a casual employee reports back to his original place of work where he worked as casual labour in skilled category after recovering from prolonged illness there is no




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rule preventing the erstwhile supervisor to take him in the skilled category as a casual labour and subsequently relieve him to join in a regular post as unskilled staff. Entering his name in the muster roll as skilled category for the short period he worked under the erstwhile supervisor does not give ~~the~~ applicant any right to hold that <sup>post</sup> ~~part~~ indefinitely and prevent the respondent to relieve him to join in the regular cadre as unskilled staff if any such order <sup>posting</sup> ~~passing~~ him in the regular capacity as unskilled labour exists after due screening etc.

5. Even now if the applicant is not interested to join in the <sup>skilled</sup> category he may submit a representation to the concerned authority to continue him as a skilled casual labour if there is work and the concerned authorities can examine his request and issue suitable orders in accordance with the rules.

6. In view of what is stated above the OA is dismissed subject to the observation in para 5 supra. No costs.

  
( R. RANGARAJAN )  
Member (Admn.)

Dated: 21st March, 1996

( Dictated in Open Court )

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Dy. Registrar (A)

Contd.

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Copy to:

Chief

1. The/Administrative Officer,  
(Construction), South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.
2. The Divisional Railway Manager, (MG),  
South Central Railway,  
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Secunderabad.
5. The Depot Store Keeper, (Construction),  
I, South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.
6. One copy to Mr. P. Krishna Reddy, Advocate,  
CAT, Hyderabad.
7. One copy to Mr. N. R. Devraj, Sr. CGSC,  
CAT, Hyderabad.
8. One spare copy.

YLR3

OA 1221/96

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD.

HON'BLE ~~SHRI A. B. GORTHY~~ : MEMBER(A)

HON'BLE SHRI R. Ranganathan : H(A)

DATED: 21.3.96.

ORDER/JUDGMENT

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

IN

O.A.NO. 1221/95.

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED  
DISPOSED OF WITH DIRECTIONS  
~~DISMISSED~~  
DISMISSED AS WITHDRAWN  
ORDERED/REJECTED  
NO ORDER AS TO COSTS

\* \* \*

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal  
नियन्त्रण/DESPATCH  
- 4 APR 1996  
हैदराबाद न्यायपीठ  
HYDERABAD BENCH