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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.821 OF 1995

DATE OF ORDER: 16th February, 1998

BETWEEN:

M.PANDURANGA

.. APPLICANT

AND

1. The F.A & C.A.O.,
South Central Railway,
Secunderabad,

2. The General Manager,
S.C.Railway,
Secunderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.S.MURTHY

COUNSEL FOR THE RESPONDENTS: Mr.D.F.PAUL, 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.K.S.Murthy, learned counsel for the applicant and Mr.D.F.Paul, learned standing counsel for the respondents.

2. The applicant was selected for the post of Clerk Grade I under R-1 against the Physically Handicapped quota as his name was sponsored by the Employment Exchange, Warangal. He was selected and given offer of appointment subject to being found medically fit. He did not qualify

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in the medical examination. Hence he filed OA 954/89 on the file of this Bench which was decided on 21.8.90. In that OA he approached the Tribunal with the prayer that he be appointed as Accounts Clerk in the Railways.

3. The operative portion of the judgment in the above referred OA reads as below:-

"Taking all these factors into account and keeping in mind that the applicant is a physically handicapped person and that he is applying only for the post of Accounts Clerk, which does not entail exacting physical requirements, we feel that it is a fit case for medical re-examination. The earlier medical examination as indicated in the counter affidavit was conducted by a team consisting of DMO/Oph.DMO/Phyn. and DMO/Ortho. We direct that the Railway Authorities constitute a new team including at least one heart specialist for re-examining the applicant for appointment against the physically handicapped quota. In the event of his being found fit, he may be offered employment against an existing vacancy or any immediate vacancy arising. It may however be made clear to the applicant that his appointment counts only from the date when he actually assumes charge and not against the original date of selection."

4. The applicant was appointed after re-examination in January 1991. The applicant submits that he was not given the appointment even on notional basis with effect

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from 1985. He made representation on 16.3.92 to R-1 to consider his request to effect his appointment from 1985 on notional basis. A copy of his representation is at Annexure I dated 16.3.92 ~~is at Annexure I to the OA~~ addressed to R-1. That representation was disposed of by the order No.AAD/R.11/Vol.VIII dated 2.6.92 (Annexure II at page 9 to the OA, stating that the representation was made strictly in accordance with the terms and conditions laid down by this Tribunal in the judgement dated 21.6.90 in OA 954/89 and hence he cannot be given notional appointment with effect from 1985 but can be given only from the date he joined service on the basis of his reinstatement in January 1991.

5. This OA is filed praying for a direction to the respondents to consider the request of the applicant for effecting his date of appointment from December 1985 as Accounts Assistant in the First respondent's office instead of January 1991 on notional basis.

6. A reply has been filed in this OA. The respondents in the reply submit that he was reexamined in accordance with the judgement of this Tribunal in OA 954/89 and on the basis of the reexamination he was found fit for the post of Clerk Gr.I in C-2 medical category and he was appointed on 29.1.91 by the Office Order No.10/91. It is also stated that in the Office Order itself it has been clearly stated that his seniority will be reckoned from the date of his joining and not from the date of original selection as per the directives ^{on} of this Tribunal in OA 954/89 (Annexure-I to the reply). ~~Then~~ he had represented

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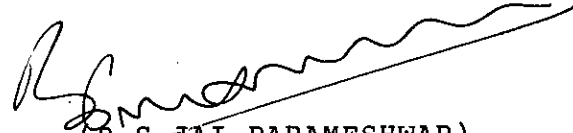
for giving him notional appointment with effect from 1985 and he was replied by the letter dated 22.12.94 that the same cannot be agreed to and his appointment has been made in accordance with the direction of this Tribunal in OA 984/89.

7. We have perused the judgment dated 21.8.90 in OA 954/89 of this Tribunal. It has been clearly stated in the judgement that "his appointment counts only from the date when he actually assumes charge and not against the original date of selection". From the above direction, it is very clear that the previous Bench itself had considered the likelihood of his contention to give him appointment with effect from 1985 and to set at rest that contention, the previous Bench had clearly stated that his appointment will count only from the date when he actually assumes the charge and not against the original date of selection. When such a clear direction is given, it is not understood how the applicant can ask for notional appointment with effect from 1985. Probably the applicant is of the opinion that he can make the Tribunal to accept his view if it is not brought on record the judgement in OA 954/89. The very fact that he has not mentioned the disposal of OA 954/89 in this OA clearly indicates that the the applicant wants to take advantage by concealing the judgement in OA 954/89. We deprecate such a tendency.

8. As the applicant has been clearly informed that his appointment will count only from the date of his taking charge as Clerk Gr.I in pursuance of the direction in OA 954/89 and this is in accordance with the direction given

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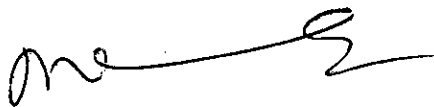
in that OA, we do not think that the applicant can get any benefit from this OA. As a matter of fact, the OA is misconceived and hence it is liable only to be dismissed. Accordingly it is dismissed. No order as to costs.

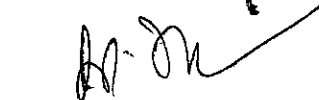

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

16.2.98

DATED: 16th February, 1998
Dictated in the open court.

vsn


(R. RANGARAJAN)
MEMBER (ADMN.)


D.R.

GA.821/95

Copy to:-

1. The F.A. & C.A.O., South Central Railway, Secunderabad.
2. The General Manager, South Central Railway, Secunderabad.
3. One copy to Mr. K.S.Murthy, Advocate, CAT., Hyd.
4. One copy to Mr. D.F.Paul, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate.

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23/2/98
TYPED BY
COMPARED BY

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: 16/2/98

ORDER/JUDGMENT

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

in

G.A.NO. 821/95

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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