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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH AT  
HYDERABAD.

O.A.No. 107/95 ,  
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Date of decision: 21-1-1998.  
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Between:

V. Nageswara Rao. .. Applicant.

And

1. The Union of India represented by its  
Secretary, Ministry of Railways, New Delhi.
2. The Divisional Manager, South Eastern Railway,  
Waltair, Visakhapatnam. .. Respondents.

Counsel for the applicant: Sri Briz Mohan Singh.

Counsel for the respondents: Sri N.R.Devaraj.

CORAM:

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT:

(per Hon'ble Sri B.S.Jai Parameshwar, Member (J))  
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Heard Sri R. Briz Mohan Singh, the learned counsel  
for the applicant and Sri N.R.Devaraj, the learned Standing counsel  
for the respondents.

The applicant was appointed initially as casual labourer  
in ~~Carrier~~ <sup>Carriage</sup> and Wagon Branch, Waltair Division. Thereafter,  
he was called for selection for being absorbed in regular  
service. He was medically examined on 15-1-1968 and on being  
qualified and eligible to be appointed and being found fit  
medically, he was appointed as Shed Khalasi on 25-1-1968 and  
his service record was opened on 6-2-1968. The respondents  
also started deducting his provident Fund contributions

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with effect from 25-1-1969.

The applicant submits that his next promotion ~~was~~ <sup>was</sup> ~~would be~~ to the post of Khalasi Helper and he was promoted to the said post on 8-3-1976 after subjecting him to a Trade Test and thereafter he was promoted to Grade III Fitter on 15-9-1990. The applicant submits that he has been working as Fitter, Grade III. He submits that no seniority list was circulated. He states that when he approached the Establishment Section he was shown the seniority list as on 31-12-1993 in the category of Fitter Grade III and the seniority lists in the category of Fitter Grades I and II.

He has filed this O.A., to declare that the seniority list dated 31-12-1993 in the category of Fitter Grade III of the 2nd Respondent Division as erroneous, arbitrary and violative of Articles 14 and 16 of the Constitution of India and ~~and~~ <sup>a</sup> for ~~issuance~~ <sup>issuance</sup> of consequential directions to the respondents for fixing the seniority of ~~as~~ the date of his initial appointment as 25-1-1968 and place him at Sl.No.2 in the seniority list dated 31.12.1993 in the category of Fitter Grade-III in the 2nd respondent's Division.

On 7-7-1995 an interim order was passed directing the respondents that in case any promotions <sup>were</sup> ~~are~~ going to be made in pursuance of the seniority list, the same <sup>should</sup> ~~would~~ be subject to the result of this O.A., and the same should be indicated in the order of promotion.

The respondents have filed their counter stating that the application is not maintainable as it is barred by time, that the seniority list dated 31.12.1993 was issued

basing upon the seniority lists of 1984, 1987 marked as Annexure R-1 and that the applicant cannot challenge the impugned seniority list unless he challenges the previous two seniority lists of 1948 and 1987, that the applicant has not filed any appeal against the selection or seniority or promotion within six months from the date of publication of the seniority list, that as per the entries made in the service register the applicant was promoted as Khalasi Helper on 1-8-1978 and not on 8-3-1976 as stated by the applicant, that the applicant was promoted as Fitter Gr. III on 19-9-1990 and not on 15-9-1990, that the applicant was appointed on 25-1-1968 as substitute Shed Khalasi and was regularised with effect from 29-7-1972, that in terms of para 159 of Part XV of Chapter I of IREM, 1989 Edition, the posts of Skilled Artisan in the scale of Rs. 950-1500 are filled -- (i) 25% by selection from course completed Act apprentices, ITI passed candidates and Matriculates from open Market, serving employees who are course completed act apprentice ~~or~~ or ITI qualified could also be considered against this quota relaxing the age limits, (ii) 25% from Semi-skilled and Un-skilled staff with educational qualification and (iii) 50% by promotion of staff in the lower grade as per seniority, that the applicant is not a candidate possessing the requisite qualification for direct recruitment and that his seniority has to be reckoned from the date of regular appointment

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but not from any other date of adhoc appointment.

The date of entry into service of the applicant is admitted to be 25-1-1968. But it is not known whether it is on casual basis or on regular basis. The dates of his promotion as Khalasi Helper and as Fitter Grade III have also to be checked.

The impugned seniority list is only a provisional seniority list. It appears that the respondents have not yet finalised that list in which the applicant has been shown as regular Khalasi with effect from 20-7-1972 whereas the applicant submits that the date should be shown as 25-1-1968. If he has been given the date of entry as a regular Khalasi as 25-1-1968 he would have gone higher up in the seniority list and that would have ~~been~~ helped him to get promotion to the higher post submits the learned counsel for the applicant.

When we asked the learned counsel for the applicant to produce the appointment order as a regular Khalasi Helper with effect from 25-1-1968 the learned counsel for the applicant submitted that he is not possessed of any such document. Hence, we are left with no option except to check the service register entry of the applicant to find out the actual date of his appointment as a Regular Khalasi. This is only a factual verification. Hence, it is not necessary for us to call for the records. It is enough if the respondents show that the date of regular appointment as


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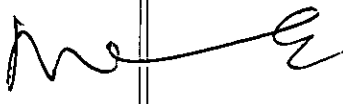
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Khalasi ~~Helper~~ as entered in the service register to the applicant and that if the applicant has got any objection to that he can submit a representation to the respondents then and there itself. Thereafter the respondents shall examine the representation of the applicant and give a suitable reply to the applicant within a period of 45 days from the date of receipt of such representation. If any correction has to be <sup>done</sup> ~~drawn~~ on the basis of the decision taken on the representation of the applicant, the respondents shall make the necessary corrections in the records and the applicant be given promotion on the basis of the corrected date of appointment as regular Khalasi. Till such time, the issue is decided, as directed above, no promotions to higher grade should be made by the respondents.

With the above directions, the O.A., is disposed of.

No order as to costs.

  
B.S. JAI PARAMESHWAR,  
Member (J)

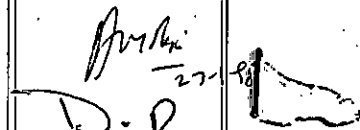
  
R. RANGARAJAN,  
Member (A)

21.1.98

Date: 21-1-1998.

Dictated in open Court.

SSS.

  
D.R.



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Copy to:

1. The Secretary, Min.of Railways, New Delhi.
2. The Divisional Manager, South Eastern Railway, Waltair, Visakhapatnam.
3. One copy to Mr.Briz Mohan Singh, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
5. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One copy to HBSJP,M(J),CAT,Hyderabad.
8. One duplicate copy.

YLKR

2/2/98  
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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: 21/1/98

ORDER/JUDGMENT

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

in

D.A.NO. 107/95

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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