

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No.1083 OF 1995.

Date of Order:10-7-1998.

Between:

K.M.Thomas Kutty.

.. Applicant

a n d

1. General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
2. Chief Personnel Officer, South Central
Railway, Rail Nilayam, Secunderabad.
3. Controller of Stores, South Central
Railway, Rail Nilayam, Secunderabad.
4. Sri G.Ananda Krishna,
Office Superintendent Grade-II.
5. Smt.V.Vijaya Lakshmi,
Office Superintendent Grade-II.
6. Smt.V.P.Usha Kiran,
Office Superintendent Grade-II.
7. Smt. V.T.Susheela Devi,
Office Superintendent Grade-II.
8. Sri D.S.Prakash Rao,
Office Superintendent Grade-II. .. Respondents
in
R-4 to R-8 are working/the office
of the Controller of Stores, South
Central Railway, Rail Nilayam,
Secunderabad.

COUNSEL FOR THE APPLICANT :: Mr.G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS:: Mr.C.V.Malla Reddy

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

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

: O R D E R :

(AS PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (A))

Heard Mr.G.V.Subba Rao for the Applicant and
Mr.C.V.Malla Reddy for the Respondents. R-4 was issued with a
notice, called absent. The applicant himself submitted

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that his case need not be considered for giving relief against the other private respondents other than R-4.

2. The applicant in this OA was originally appointed as a Peon in the Controller of Stores office on 5-9-1966. He was promoted as Record Sorter on 2-6-1969, as Senior Record Sorter on 10-7-1969 and as Junior Clerk on 16-10-1969. During 1971 he was selected against 25% LDCE for the post of Junior Clerk. The applicant was promoted as a Senior Clerk with effect from 1-10-1980. He belongs to the Controller of Stores office and from that date he has been discharging his duties as Senior Clerk.

3. The respondents invited applications for formation of panel to the post of Office Superintendent Grade-II in the scale of pay of Rs.1600-2660(RSRP) in the office of the Controller of Stores. On the basis of the written test and selection process, a panel was prepared consisting of 10 persons as per proceedings No.P.608/Stores/OS/Gr.II/Selection/, dated:17-2-1995 (Page.10 to the OA).

4. In the meanwhile, the applicant submitted a representation dated:21-5-1995 for refixation of seniority and pay of the applicant. By letter No.G.52/MP Rep/95/246, dated:31-5-1995 (Annexure.11 to the OA), he was informed that the case of Thomas Kutty was considered earlier on 25-1-1995 and that Mr.Thomas Kutty was junior to Sri G.Ananda Krishna and that Sri Thomas Kutty was not justified in representing that injustice has caused to him in his service matters.

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5. The applicant has filed this OA challenging the panel dated:17-2-1995 and Order dated:31-5-1995, and for a consequential direction to the respondents to include his name in the panel at the appropriate place taking into account his performance in the written and viva voce tests and assigning marks for seniority as per rules and to modify the panel position inserting his name in place of Respondent No.4 shown at Serial No.6 in the panel and correspondingly regulate the result of the respondents 5 to 8, and for other consequential benefits such as arrears of salary etc., from the date his immediate juniors are promoted.

6. The applicant is aggrieved by the induction of the Respondent No.4 in the seniority list of Controller of Stores Unit.

7. The respondents have filed a counter stating that the OA is barred by limitation. That the said Respondent No.4 was initially allotted to Stores Department but was working at the General Manager's office and that the seniority list of Senior Clerks in the Controller of Stores Unit was published and that the applicant had not raised any objection earlier as to the induction of Respondent No.4 to the Unit of Controller of Stores and that the applicant had not fared well in the formation of panel for the post of Office Superintendent Grade-II and that there are no merits in this OA.

8. The main contention of the applicant is that the Respondent No.4 was not at all working in the Controller of Stores Unit and that he was inducted only by an Order dated:7-6-1982 (Annexure.R-5 to the counter). He has

submitted that the seniority list issued earlier to that date did not include the name of Respondent No.4 and that it was only on 7-6-1982 his name was allotted to the Controller of Stores Unit.

9. Thus the learned Counsel for the applicant submits that, induction of Respondent No.4 to the Controller of Stores Unit was irregular.

10. The respondents have produced the provisional seniority list of Senior Clerks and the provisional seniority list of Clerks in the grade of Rs.260-400 in the office of the Controller of Stores as on 1-4-1985. In that list the name of the Respondent No.4 is shown at Serial No.41 and the name of the applicant is shown at Serial No.52. In the provisional seniority list of Senior Clerks in the scale of pay of Rs.300-560 in the Stores Department as on 31-12-1983, the names of Respondent No.4 and the applicant figure at Serial Nos.99 and 109 respectively. The applicant in his Rejoinder has filed the seniority list of Junior Clerks as on 30-11-1978 i.e., earlier to the issue of the letter dated:7-6-1982 whereby the Respondent No.4 was allotted Stores Department. In the said seniority list of Junior Clerks as on ³⁰⁻¹¹⁻⁷⁸~~31-7-1988~~ the name of the applicant is at Serial No.125 and the name of the Respondent No.4 is not found therein. Similarly, in the provisional seniority list of Senior Clerks issued on 31-3-1982 enclosed as Annexure to the Rejoinder, the name of the applicant stands at Serial No.141 and the name of the Respondent No.4 is not found therein.

11. From the above, it looks that the Respondent No.4 was allotted to the Stores Department only after the issue of the letter dated:7-6-1982. Though the Respondent No.4

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belongs to the seniority list of Stores Department, no proof is available before us to come to that conclusion. Hence it is not very clear whether the Order dated: 7-6-1982 allotting Respondent No.4 to the Stores Department had been done in accordance with the rules. If it is not done according to the rules then the issue of the office order dated:7-6-1982 itself needs revision following the extant rules, and on that basis if the applicant is eligible to get any further relief, the same should be granted to him.


12. In the result the following directions^{are} ~~is~~ given:-

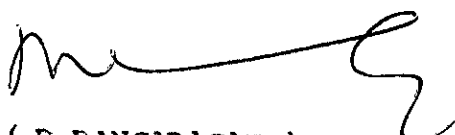
- (a) If the inclusion of the name of Respondent No.4 allotting him to the Controller of Stores Department had been done in accordance with the rules, the same shall be explained to the applicant in detail. In such an event, the OA stands dismissed;
- (b) If the letter dated:7-6-1982 was issued without following the extant rules, then the whole issue has to be considered afresh as per rules before allotting the Respondent No.4 to the Controller of Stores Department; and
- (c) The Respondent No.3 shall consider the Letter dated:7-6-1982, review the same, and if the applicant is entitled to any further relief, the same should be granted to him in accordance with Law.

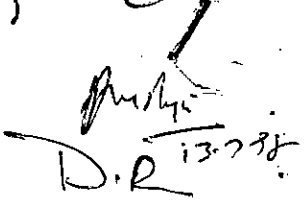
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13. With the above direction, the O.A. is ordered accordingly. No order as to costs. Time for compliance is four months from the date of receipt of a copy of ^{this} Judgment.


(B.S. JAI PARAMESHWAR)
MEMBER (J) 10.7.98


(R. RANGARAJAN)
MEMBER (A)


D.R. 13.7.98

Dated: this the 10th day of July, 1998

Dictated to the steno in the open court

DSN

OA.1083/95

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. The Controller of Stores, South Central Railway, Rail Nilayam, Secunderabad.
4. One copy to Mr. C.V. Malla Reddy, Addl. CGSC., CAT., Hyd.
5. One copy to BSJP M(J), CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

SRR

16/7/98

II COURT

TYPED BY
COMPARED BY

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:

10/7/98

ORDER/JUDGMENT

~~M.A./R.A./C.P.H.S.~~

in

C.A.NO.

1083/95

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

16 JUL 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH