

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.1340 of 1995.

DATE OF ORDER- 02.4.1998.

BETWEEN:

B. Mallesh, s/o Sailoo,
aged about 39 years,
working as Electrical Khalasi,
O/o Chief Electrical Foreman(Maintenance)
M.G. S.C. Railway, Secunderabad. ... APPLICANT

A N D

1. General Manager,
representing Union of India,
S.C. Railway, Rail Nilayam,
Secunderabad.
2. Divisional Railway Manager(Personnel),
South Central Railway,
Hyderabad Division,
Secunderabad. ... RESPONDENTS

Counsel for Applicant : Mr.S. Ramakrishna Rao

Counsel for Respondents : Mr.V.Rajeswara Rao, ACGSC

CORAM :

Honourable Mr.R. Rangarajan, Member (Admn.)

Honourable Mr. B.S.Jai Parameshwar, Member (Judl.)

ORAL ORDER.

(Per Hon.Mr.R.Rangarajan, Member(Admn.))

1. Heard Mr. S. Ramakrishna Rao, for the applicant and Mr. V. Rajeswara Rao for the respondents.
2. The applicant in this O.A. was initially engaged as a Yard Khalasi (Coal) (for short, 'YKC') with effect from 3.7.1974 by order No.YP/563/P/11/1/MG dated 28.12.1983 (at page 15 of the O.A.). The applicant was promoted as Fireman 'C' in the scale of pay of Rs.210-270/-.. In the order dated 28.12.1983 his name was shown as 'G.Mallesham Sailoo' instead of 'B. Mallesh, s/o Sailoo'. Hence he appealed for correction of his name as

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B. Mallesh, s/o Sailoo, in place of G. Mallesham Sailoo. That was agreed by the authorities by their letter No.S.O.O.28/ELR/MG/84 dated 11.6.1984(Annexure-III at page 17 of the O.A.). Thereafter he was sent for medical test and he qualified in the medical test on 11.10.1984. The applicant was reported to have remained absent unauthorisedly from 8.6.1984 to 5.9.1984 and for that he was issued with a minor penalty charge sheet which resulted in withholding of one annual increment normally due on 1.1.1985 for a period of 2 years without cumulative effect vide Memo dated 14.1.1988. Another charge memo. was also issued to the applicant for his unauthorised absence from 1.4.1985 to 8.4.1985 and 23.4.1985 to 26.4.1985. Thereafter the applicant was not promoted as Fireman 'C' and the applicant was punished with the withholding of the annual increment for a period of 18 months without cumulative effect. After the punishments were over, the applicant was not promoted as Fireman 'C'. In the meantime, there was ^{shimpaga} ~~sinkage~~ of Steam staff and hence the applicant was transferred to the Electrical Department as Khalasi in the scale of pay of Rs.750-940/-vide Office order dated 29.9.1989. He joined the duty on 28.10.1989. It is stated that the applicant was transferred as the Electrical Khalasi on his own option. In view of his earlier promotion as Fireman 'C', the department considered fit to grant him the scale of pay of Rs.210-270/-, the scale which is prescribed for the post of Fireman 'C', while he was working as Khalasi in the Electrical Department by Memo dated 5.7.1995. The applicant submitted a representation for his promotion as Fireman 'C' in the scale of pay of Rs.210-270/- and for posting him at Nizamabad. That representation was

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considered and it was negatived by the impugned order No. YP/563/P.11/1/HYB/FM'C' dated 31.7.1995 (at page 14 of the O.A.).

3. This O.A. is filed to set aside the impugned order dated 31.7.1995 and for consequential relief to the applicant to promote him as Fireman 'C' in the scale of pay of Rs.210-270/- with effect from 28.12.1983 i.e. from the date he was empanelled as Fireman 'C' on par with his juniors, duly fixing his seniority for further promotions as per S.C. roster points, with all consequential benefits on that basis.

4. It is not in dispute that the applicant was promoted as Fireman 'C' by order dated 28.12.1983 (at page 15 of the O.A.). However, because of the punishments imposed on him, the applicant was not promoted as Fireman 'C' in the year 1985 when his punishments were over. The applicant did not protest against his non-promotion as Fireman 'C' soon after his punishments were over and he was posted as a Khalasi. At that time if he was aggrieved by his posting as Khalasi and not promoting him as Fireman 'C', in the scale of pay of Rs.210-270/-, he should have challenged the decision of the authorities. But for the reasons best known to him, such a challenge was not made. The applicant on his own option joined as Electrical Khalasi in the lower scale of pay of Rs.196-232/- and he was given the higher scale of pay of Rs.210-270/- due to his earlier empanelment as Fireman 'C'. But the applicant cannot demand the higher scale of pay of Rs.210-270/- with effect from the date he was empanelled for the post of Fireman 'C' in the year 1983 as he failed to challenge the decision of the authorities posting him

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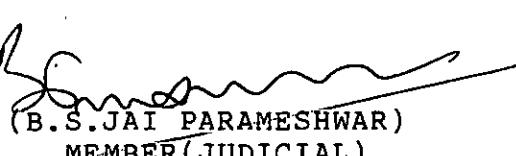
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as Khalasi in the scale of pay of Rs.196-232 way back in the year 1985, after he spent over the punishments.

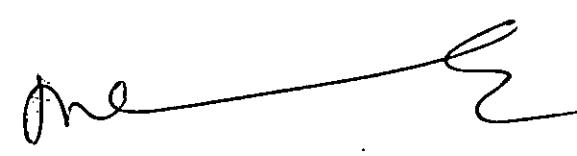
5. Hence with the above details, the applicant cannot now ask for promotion to the post of Fireman 'C' at this juncture with effect from 1983 especially so when he has come to the Electrical Department on his own option. However, the applicant is at liberty to challenge those punishment orders and not posting him as Fireman 'C' in the year 1985 itself after the punishments were over, in accordance with law.

6. The applicant has been given the scale of pay of Rs.210-270/- while he was working as Khalasi in the Electrical Department considering the benefit he lost due to the earlier punishments and his option to come over to the Electrical Branch. That concession will not give him ^{the} right to demand the scale of pay of Rs.210-270/- with effect from 1983 when he was empanelled as Fireman 'C'.

7. In view of what is stated above, we do not find any irregularity in the impugned order dated 31.7.1995. Hence the O.A. is liable to be dismissed and it is accordingly dismissed. No costs.


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

2/4/98


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

Dated the 2nd April, 1998.
Dictated in the Open Court.

DJ/

DA. 1340/95

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager (Personnel), South Central Railway, Hyderabad Division, Secunderabad.
3. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT., Hyd.
4. One copy to Mr. V. Rajeswara Rao, ADGSC., CAT., Hyd.
5. One copy to G.R.(A), CAT., Hyd.
6. One duplicate copy.

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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: 21/4/98

ORDER/JUDGMENT

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

in
O.A. NO. 1340/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

Central Administrative Tribunal
Hyderabad Bench
HYDERABAD BENCH

21 APR 1998

Despatch

RECEIVED

EX-15/APPAL SECTION