

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1425/95

dt.24-12-97

Between

Sri Mir Hasanulla

Applicant

and

1. General Manager
SC Rly., Secunderabad 371

2. Chief Personnel Officer
SC Rly., Secunderabad 371

3. Chief Commercial Manager
SC Rly., Secunderabad 371

4. Dy. Chief Personnel Officer(T)
SC Rly., Secunderabad 500371

Respondents

Counsel for the applicant

: K. Lakshmi Narasimha
Advocate

Counsel for the respondents

V. Rajeswara Rao
SC for Railways

Coram

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

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

for

1

(58)

OA.1425/95

dt.24-12-97

Judgement

Oral order (per Hon. Mr. R. Rangarajan, Member(Admn.)

Heard Sri K. Lakshmi Narasimha for the applicant and Sri V. Rajeswara Rao for the respondents.

1. The applicant applied for the post of Catering Manager in the scale of Rs.330-480 in response to notification No.3/83 dated 18-9-83. He was empanelled for that post. However, the Respondent-2 issued a letter to him that the Direct recruitment to the post of Catering Manager in the scale of Rs.330-560 had discontinued from 1-1-1984 and hence it was not possible to offer him appointment to the post of Catering Manager in the scale of Rs.330-560. Since he has been selected by ^{the} Railway Service Commission it was decided to offer him the post of Assistant Catering Manager, in the scale of Rs.260-430. His willingness was asked ^{for} and accordingly he gave his willingness. He was appointed on the basis of his willingness as Assistant Catering Manager in the scale of Rs.260-430(RS) with effect from 10-1-86. The applicant made representation for posting him as Catering Inspector as there ^{were} ~~are~~ vacancies existing. ^{the} Railway Board under letter dated 26-4-1988 addressing General Manager, South Central Railway, informed the the General Manager that the applicant may be appointed as Catering Manager in the scale of pay of Rs.330-560 (RS) (Rs.1200-2040 (RSRP) against direct recruitment quota in the scale of Rs.425-640/1400-2300 with effect from the date of such orders being passed. Consequently, the petitioner was given the grade Rs.330-560(RS) in January, 1990. It was stated that since then the applicant ^{is} ~~was~~ working in that grade. Thereafter

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the applicant was promoted as Catering Inspector in the scale of pay of Rs.1400-2300 in March, 1994 (Annex-3).

2. While he was working as Catering Inspector, he was reverted by impugned order No.P(C)535/Catg.Manager/Vol.I dated 15-11-95 to the post of Asstt. Catering Manager in the scale of pay of Rs.975-1540. It is stated in the impugned order that the above reversion was necessitated because of judgement in OA.1102/91 on the file of this Bench.

3. This OA is filed for setting aside the impugned order dated 15-11-1995 issued by Respondent-2 in so far as the applicant is concerned and for consequential direction to retain him as Catering Inspector.

4. An interim order was issued in this OA on 23-11-95.

The interim order reads as follows :

"The applicant having been placed in the panel by promotion on 14-2-94 was promoted from the post of Catering Manager to Catering Inspector Gr.II vide order issued in March, 1994. When the applicant worked in that post for more than one and a half years, he has been reverted to the post of Catering Manager, vide impugned order dated 15-11-1995. Apparently, this order was issued without prior notice to the applicant.

Learned counsel for the applicant further states that the applicant was not a party to OA.1102/91.

In the circumstances of the case, I deem it just and fair to direct that the operation of impugned order No.P(C) 535/Catering Manager/Vol.I dated 15-11-95, issued by

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Dy.C.P.O(T) is suspended till further orders."

5. In view of the interim order, reversion order was suspended and the applicant was continued as Catering Inspector till now.

6. The ~~again~~ ^{main} contention of the applicant in this OA is that he is not a party in OA.1102/91 due to which his reversion order was issued. He was also not given prior notice before issuing the impugned order. Hence, direction ~~may~~ be given to quash the reversion order issued without hearing him by the authority.

7. A reply has been filed in this OA. The facts of the case as enumerated has been accepted by the respondents. However, the respondents submit that his reversion was ~~was~~ necessitated because of the direction in OA.1102/91 and hence issue of notice is not necessary in this case. It is further stated that the seniority list of Catering Managers in pursuance of the direction in OA.1102/91 on the file of this Bench was also issued. The applicant though given an opportunity to represent against the seniority list, ^{he} did not take any action ⁱⁿ this connection. Hence, the learned counsel for the respondents submits that the applicant cannot resist the reversion order for the reasons stated above.

8. When the case was heard on 9-12-1997, the learned counsel for the applicant submitted that as he was continued without reversion many of his juniors during that period had been promoted as Catering Inspectors and as his case was not considered, as he was already working in that grade, ~~hence~~ reverting him now is not permissible as his juniors have been promoted without considering his case.

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9. The applicant also denies receipt of communication of the Provisional Seniority list issued in pursuance of the direction in OA.1102/91.

10. The denial of the applicant that he has not seen the Provisional Seniority list cannot be accepted at the face value as it would have been pasted in the notice board. If the applicant fails to notice that and fails to give his representation, the respondents cannot be held responsible for that lapse. However, if any of his juniors have been promoted to the post of Catering Manager in the intervening period without considering the case of the applicant then the applicant has a case for considering his case for promotion as Catering Manager on par with his juniors.

11. In the rejoinder dated 19-11-1997 submitted by the applicant, the applicant submits that about eight juniors have been promoted as Catering Inspectors and when the juniors have been promoted his case was not considered as the interim order was in force. Hence, reverting him without considering his case for promotion on par with his juniors is irregular and hence he should be continued as Catering Inspector in the scale of pay of Rs.1400-2300 till such time his case is considered for promotion as Catering Manager on par with his juniors. Further, he submits that as he has been already been promoted as Catering Inspector on the basis of selection there cannot be any further selection in this connection.

12. As stated earlier the applicant should be considered for promotion for the post of Catering Inspector on par with his juniors if in the intervening period any of his juniors

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are promoted to the post of Catering Inspectors without considering the case of the applicant. However, whether he should be subjected to a fresh selection or not cannot be decided at this juncture as the rules, syllabus and the method of selection for the post of Catering Inspectors could have ~~been~~ undergone changes during this period. Hence, we leave this issue open whether he should be subjected to fresh selection now for promotion on par with his juniors who were already promoted by Respondent-3. If he decides that the earlier selection will hold good then the applicant may not be subjected to fresh selection for promotion to the post of Catering Inspector on par with his juniors who were promoted during the intervening period. But if the applicant is to be subjected to selection, the same should be informed to the applicant and further action taken on the basis of the decision.

13. The learned counsel for the respondents submit that none of his juniors have been promoted. Only some SC and ST & have been promoted on the basis of roster point and this point needs to be checked from the records as he is only asking the respondents to consider his case for promotion to the post of Catering Inspector on par with his juniors on the basis of records available. It is not necessary for us to consider the contentions of the respondents at this juncture.

14. The learned counsel for the applicant submits that he should be reverted only after issuing a notice if it is necessary to revert him. We ^{law} already stated that the applicant should be informed of ^{the decision and also the decision} his result and if he is subjected to a fresh selection. In view of that issuing of any notice will not arise as that itself indicates that

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he he will be retained or reverted. However, if he is ~~KC~~ reverted then that reversion order should be issued 15 days after conveying the decision to the applicant.

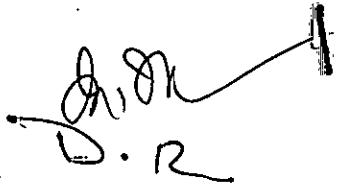
15. With the above direction the OA is disposed of.

No costs.


(B.S. Jai Parameshwar)
Member (Judl.)
24.12.97


(R. Rangarajan)
Member (Admn.)

Dated : December 24, 97
Dictated in Open Court


D.R.

sk

DA.1425/95

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Secunderabad.
3. The Chief Commercial Manager, South Central Railway, Secunderabad.
4. The Dy. Chief Personnel Officer(T), South Central Railway, Secunderabad.
5. One copy to Mr. K. Lakshmi Narasimha Advocate, CAT., Hyd.
6. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

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TYPED BY
COMPIRED BY

A Court
CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE R. Rangarajan
VICE-CHAIRMAN M(A)

AND

THE HON'BLE MR. H. RAJENDRA PRASAD M(A)
B. S. Jai Parameshwar

DATED: 24-12-1997

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ORDER/JUDGMENT:

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

O.A.No. 1425/95 ⁱⁿ

T.A.No.

(W.R)

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected:

No order as to costs.

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