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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 1491/95

Between :-- DATE OF ORDER : 24-04-1998.

M.Margaret

...Applicant

And

1. The Chief Personnel Officer,
SC Rlys, Sec'bad.
2. The Chief ^Medical Director,
SC Rlys, Sec'bad.
3. The Sr. Divisional Personnel
Officer, SC Rlys, Guntakal.
4. J.Venkateswarly

... Respondents

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Counsel for the Applicant : Shri S.Ramakrishna Rao

Counsel for the Respondents : Shri V.Bheemanna, SC for Rlys

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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.... 2.

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri S.Ramakrishna Rao, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents. Notice served on Respondent No.4 but called absent.

2. The facts of this case are as follows :-

The applicant in this OA joined as a Direct Recruittee Field Worker (Female) on 23-6-92 in the scale of Rs.260-350/ 950-1400 and posted to Railway Hospital, Guntakal. The applicant was further promoted as Sr.Field Worker (Female) in the scale of pay of Rs.1200-2040 equivalent to the grade of senior clerk and transferred to the Railway Hospital, Lalaguda against the upgraded post in terms of letter No.G.P.535/VI/Vol-7 dt.7-2-92 (Annexure-V page-15 to the OA). It is stated that the applicant has not carried out the promotion transfer due to the reasons known to her. However she was given promotion in Guntakal itself on 6-4-94 and she is working in that post from that day onwards. That means that the applicant was promoted as Sr.Field Worker (Female) in the scale of pay of Sr. Clerk only from 6-4-94.

3. A notification was issued bearing No.P(MD)/529/FWO dt.14-9-92 (Annexure-VIII to the OA) for formation of a separate cadre for family welfare organisation of South Central Railway. Respondent No.4 joined as a ~~peon~~ Clerk ~~as~~ in the Family Welfare Organisation who was earlier appointed a Peon in Medical Department and was appointed as Jr.Clerk on 28-12-84 and was promoted

as Sr.Clerk in the ~~the~~ Medical Department w.e.f.8-1-87. Though it is stated that the Respondent No.4 was given retrospective promotion as Sr.Clerk from 8-1-87, it is a fact that the seniority of Respondent No.4 in the Sr.Clerk post in the Medical Department starts from 8-1-87 irrespective of the fact whether he was actually promoted ~~was issued~~ or an order with retrospective effect from 8-1-87, ~~issued~~.

4. Respondent No.4 ~~given~~ ^{gave} his option to come to the Family Welfare Organisation as per the circular dt.14-9-92 (Annexure-VII to the OA).

5. The Respondent No.4 was shown senior to the applicant in the senior clerk grade in the scale of Rs.1200-2040 on the ground that the applicant was promoted as Sr.Clerk in Medical Department much earlier to the applicant and when he came on option to Family Welfare Organisation, he was fitted in the Sr.Clerks seniority list in terms of para-3 of the circular dt.14-9-92 and at that time the applicant was in the cadre of Field Worker (Female) equivalent to the grade of Jr.Clerk.

6. This OA is filed praying for a direction to the respondents to give proforma promotion to the applicant w.e.f. 17-7-87 i.e. from the date her junior (fourth respondent) was promoted as Sr. Clerk with all consequential benefits fixing her pay and seniority accordingly with back wages from 30-11-89.

7. The main contention of the applicant in this OA is that she was promoted as Sr.Clerk way back by order dt.7-2-92(Annexure-V page-15 to the OA) and that order should govern the seniority of the applicant in the grade of senior clerk and on that basis further

promotion should be ordered. It is further added that when the applicant was appointed in Class-III post as a Field Worker (Female) on 23-6-82 Respondent No.4 was only in Class ~~IV~~ scale and he was promoted to Group-C on 28-12-84 and because of that Respondent No.4 should not be shown senior to the applicant in the Family Welfare Organisation.

8. The first contention of the applicant is that she should be shown as promoted to grade of Sr.Clerk w.e.f.7-2-92 as per Annexure-II, but unfortunately the applicant did not ~~carry~~ out her promotion to Lalaguda and decided to stay back in Guntakal itself as Field Worker (Female) equivalent to that of Jr.Clerk. That would mean that she has refused her promotion to the post of Sr.Field Worker (Female) equivalent to the grade of Sr.Clerk. Hence her contention that she should have been deemed to have been promoted as Sr.Clerk w.e.f.7-2-92 cannot be accepted as she has refused promotion and her date of promotion as Sr.Field Worker (Female) i.e. ~~is~~ equivalent to the grade of Sr.Clerk will be effected only from the date she actually joined Sr.Field Worker (Female) i.e. from 6-4-94. Respondent No.4 though promoted to Group-C later than the joining of the applicant as ~~Reserve~~ Field Worker (Female) his position in the Sr.Clerk cadre need not bear ~~WMS~~ the previous history as Peon. Respondent No.4 promoted to the grade of Sr.Clerk on 8-1-87 and that date decides his seniority position in the cadre of Sr.Clerk when he joined in the Family Welfare Organisation. In terms of memorandum of Railway Board dt.14-9-92 those coming on option to the family welfare organisa-
tion should be placed below that of the officials in that orga-

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nisation on 3-5-83 at the appropriate grade. The relevant portion of that letter dt.14-9-92 is reproduced below :-

Staff drafted from Medical department after 3-5-1983 and opt to remain in FWO will reckon their seniority below those who were available in FWO as on 3-5-83 in the relevant grade i.e. the grade in which they are regularly posted in their present cadre and joined EWO after 3-5-83. Their further promotion in FWO after 3-5-83 will be regulated only with reference to the seniority in FWO along with others indicated vide item (1) & (2) above.

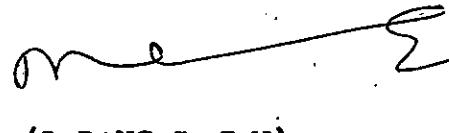
As per the above extracted portion, the respondent No.4 should be taken in the grade of Sr.Clerk in the Family Welfare Organisation when he joined family welfare organisation in the year 1992 and should be placed below that of Sr.Clerk who were in the Family Welfare Organisation as on 3-5-83. Hence the date of joining as Sr.Clerk of Respondent No.4 in the Family Welfare Organisation dates back to 1992 when he joined that organisation. The applicant was promoted as Sr.Clerk in the Family Welfare organisation only on 6-4-94 as stated earlier and that date decides her seniority in the ~~seniority~~ grade of Sr.Clerk in the Family Welfare Organisation. As the Respondent No.4 joined the Family Welfare Organisation in 1992 which is earlier to ~~an~~ the promotion of the applicant as Sr.Clerk in the Family Welfare Organisation it can be stated that the Respondent No.4 is ~~senior~~ to the applicant. Hence it is evident that the applicant is junior to Respondent No.4 as ~~it~~ explained above and hence the O.A. has to be dismissed as having no merits.

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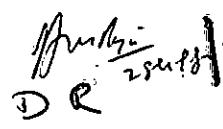
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9. In the result, the O.A. is dimissed as having no merits.
No order as to costs.


(B.S.JAI-PARAMESHWAR)
Member (J)
24/4/98


(R.RANGARAJAN)
Member (A)

Dated: 24th April, 1998.
Dictated in Open Court.


DR

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(45)

CA. 1491/95

Copy to:-

1. The Chief Personnel Officer, South Central
2. The Chief Medical Director, South Central Rai, Sec'bad.
3. The Sr. Divisional Personnel Officer, South Cenec'bad. Guntakal.
4. One copy to Mr. S.Ramakrishna Rao, Advocate, CAT. ilway,
5. One copy to Mr. V.Bhimanna, SC for Rlys, CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

15/5/96
(X)

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: 24/4/96

ORDER/JUDGMENT

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

in

O.A.NO. 1494/85

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
HYDERABAD BENCH

4 MAY 1996
Despatch No. 1
RECEIVED
विभाग/APPAL SECTION