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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.1539/95

DATE OF ORDER : 29-04-1998.

Between :-

- | | |
|--------------------------|------------------------------|
| 1. T.Thrinath | 28.S.A.Rahiman |
| 2. P.Balanarayana | 29.Jaffer Shariff |
| 3. V.M.Mohan | 30.K.Dindikeswara Rao |
| 4. P.Puilaiah | 31.K.Sambhasiva Rao |
| 5. S.P.Sharma | 32.Sri Ramachandra pracherip |
| 6. P.K.Kondaiah | 33.C.Sudhakar |
| 7. K.V.Sreerama Murthy | 34.I.Prabhakar Rao |
| 8. S.Punnuswamy | 35.Y.Prasada Rao |
| 9. D.W.Vijayakumar | 36.M.Papa Rao |
| 10.K.Satyanarayana Varma | 37.P.Raja Ram |
| 11.S.Barathi Dasan | 38.N.Jayakumaran |
| 12.M.G.Mohida | 39.B.Rebel |
| 13.M.Vijaya Kumar | 40.S.Vasatha Rajan |
| 14.Y.Malla Reddy | 41.LL.Umapathi Rao |
| 15.Ch.K.Vishweshwara Rao | 42.A.Joseph Manickm |
| 16.M.Prema Kumar | 43.N.V.Rao |
| 17.Stephen C.Koshm | 44.G.Ram Mohan |
| 18.B.R.Gopala Rao | 45.S.S.Rao |
| 19.Ch.Lingeswara Rao | 46.P.N.Pandurangam |
| 20.M.A.Khader | 47.Y.Swamirathan |
| 21.P.Venkateshwarulu | 48.R.Mohana Rao |
| 22.R.Rama mohana Rao | 49.A.L.Narayana |
| 23.M.Uma maheswara Rao | 50.M.A.Baig |
| 24.L.Nagarajan | 51.S.Munuswamy |
| 25.A.B.Anant Rao | 52.K.R.Srinivas Rao |
| 26.M.Chandra Rao | 53.D.Raja |
| 27.S.A.Ali Khan | 54.M.A.Rasased |

... Applicants

And

1. General Manager,
SC Rlys, Rail Nilayam,
Sec'bad.
2. The Divisional Railway Manager (P),
SC Rlys.(BG), Sec'bad.
3. Chairman, Railway Board,
New Delhi.
4. M.Jagan Mohan Rao
5. E.Satyanarayana

... Respondents

....2.

Counsel for the Applicants : Shri K.Sudhakar Reddy

Counsel for the Respondents : Shri V.Rajeshwar Rao, Addl.CGSC

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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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Heard Sri K.Sudhakar Reddy, counsel for the applicants and Sri V.Rajeshwar Rao, standing counsel for the respondents. None for Respondents 4 and 5.

2. There are 54 applicants in this O.A. They are aggrieved by the interpolation of the seniority list by including the respondents 4 and 5 at Sl.Nos. 1 and 13 respectively in the seniority list of HTTE/HTC and promoting them to the post of TTI ^{in the} te/scale of pay of Rs.1600-2660.

3. The respondents 4 & 5 while working as Asst.Station Master in the scale of Rs.1400-2300 were medically decategorised on 18-12-89 and 24-10-91 respectively. They were offered alternate post in pay of the equivalent ~~post to the~~ scale of Rs.1400-2300 (Commercial Department) vide office Order No.32/Comm1/DRM/90 dt.28-2-90 and 41/92 dt.8-5-92 respectively. The respondents 4 and 5 were regularised w.e.f.22-7-93 by modified selection of HTTE/HTC in Grade Rs.1400-2300 (RSRP) and their seniority was fixed from the date of their regularisation. When the provisional seniority list of HTTE/HTC in scale Rs.1400-2300 was published on 11-6-94 Sri Jagam Mohan Rao

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HTTE/KZJ had represented during DRM's inspection that his seniority was not correctly assigned. This was examined and as per instructions in vague para-9 of M.C.No.25/91 as per Board's letter No. 78/E/RLT/4 dt.23-6-79, he was assigned seniority.

4. As per revision of ~~Rasp~~ seniority list, ^{the seniority of} respondents 4 and 5 fixed as ^{provisional} was/shown in page-16 to the O.A. On the basis of that seniority list objections were called for and ~~as none~~ objected to that seniority list it was finalised on 27-3-95. On the basis of that seniority list Respondents 4 and 5 ^{were} promoted to the post of TTI in the scale of pay of Rs.1600-2660 by the impugned order dt.13-11-95 (Annexure-I to the OA).

5. This O.A. is filed for a declaration that the action of the respondents 1 to 3 in revising the seniority of HTTE/HTC in the scale of pay of Rs.1400-2300 (RSRP) and placing respondents 4 and 5 at Sl.No.s 1 and 13 and promoting them to the post of TTI to the scale of Rs.1600-2660 ^{is} illegal, arbitrary and unconstitutional.

6. The applicants had not protested against the provisional seniority list issued for revision of seniority of Respondents 4 and 5 by order No.CP/535/2/Ticket Checking/Seniority dt.29-3-95. Hence that seniority list was made final. Hence at this stage protest against that seniority list in the lower grade of HTTE/HTC is not proper. Further the respondents 4 and 5 were promoted ^{finalised} in accordance with the seniority list of HTTE/HTC.

7. The next contention of the applicant in this O.A. is that respondents failed ^{to} follow the directions given by this Tribunal

in OA 896/88 ~~and OA 28/89~~ decided on 30-3-93 (1993 (4) SLR 68) Narayanam & others Vs. Union of India) ~~is not explained in~~ ~~the present case.~~ He submits that eventhough the medically decategorised employees when absorbed in other cadre were given ^{their} seniority on the basis of length of/service in the ~~original~~ parent cadre in terms of chapter-13 of IREM, they have to be ~~be~~ promoted when their turn comes by upgrading one of the posts so that the original employees in the cadre will not be ^{to} puty/dis-advantage. For this he relies on para-16 of the judgement in OA 896/88 which reads as under :-

"But unfortunately the effect of the same in regard to the chances of promotion of the employees in the cadre in which the medically decategorised employees were absorbed was not noticed. It was rightly stated for the review petitioners that though they may not have any objection for providing alternative accommodation to the medically decategorised employees, their chances of promotion should not be affected in providing alternative accommodation to the medically decategorised person. We feel that in the circumstances the Railway Board may consider desirability of temporarily upgrading one post in the cadre in which the medically decategorised employee is absorbed when his turn for promotion comes, so that the regular employees in that cadre could get their promotions in the normal vacancies. Such upgradation should be there in the next higher post, when the medically decategorised employees gets his turn for promotion to the next higher cadre and so on till such medically detategorised employees retires or ceases ^{be} to ^t the employees for the reason. If such method is adopted ^d there will not be any heard burning for the regular employees in the cadre in which the medically decategorised employees are absorbed. Similarly, it is just and proper to upgrade one post from the lower cadre as and when the medically decategorised employee is absorbed in the higher cadre so that the normal chances of promotion of employees in the lower grade are also not affected. Of course, the post can be downgraded when the medically decategorised employee on account of whose

The learned counsel for the applicant states that it should not be treated as a mere observation only and has to be treated as a direction, and that direction holds good in this O.A. ~~as~~ also and respondents 4 and 5 should ~~not~~ have been promoted by upgrading the posts of HTTE/HTC; but that was not done. The applicants in this O.A. were ~~to be~~ put to dis-advantage.

Hence, xxxxx the assignment of seniority of respondents 4 and 5
as per said
in the category of HTTE/HTC/the rules have to be followed. The

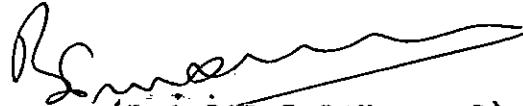
Standing Counsel for the respondents today produced letter

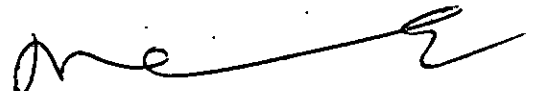
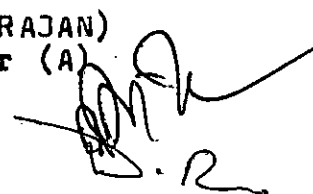
9. Hence we cannot give any relief to the applicants in this O.A. However, it is for the applicants to challenge the ~~rejection~~.

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are
from letter of the Railway Board dt.13-9-93, if they/aggrieved,
in accordance with the law. We are not expressing any opinion
in that connection as this letter is not challenged in this O.A.
Counsel for the applicants submit that the letter dt.13-9-93 has not
been given to them and hence he prays to have a copy of that letter.
We feel that this submission is fair and direct the standing counsel
for the respondents to furnish a copy of letter dt.13-9-93 to the
counsel for the applicants.

10. In the result, the O.A. is dismissed with the above observa-
tion. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)
29.4.98


(R. RANGARAJAN)
Member (A)


Dated: 29th April, 1998.
Dictated in Open Court.

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DA.1539/95

Copy to:-

1. The General Manager, SC Rlys, Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager (P), South Central Railway, (BG), Secunderabad.
3. The Chairman, Railway Board, New Delhi.
4. One copy to Mr. K. Sudhakar Reddy, Advocate, CAT., Hyd.
5. One copy to Mr. V. Rajeswar Rao, Addl. CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

27/5/98 (7)

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:

29/4/98

ORDER/JUDGMENT

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

in

O.A.NO.

1539/95

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
हैदराबाद ब्याच
HYDERABAD BENCH

19 MAY 1998

Despatch
C.A.T. SECTION

Despatch
C.A.T. SECTION