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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 Verma	37.P.Raja Ram
11.S.Barathi Dasan	38.N.Jayakumaran
12.M.G.Mohide	39.B.Rebel
13.M.Vijaya Kumar	40.S.Vasatha Rajan
14.Y.Malla Reddy	41.LLUnepathi Rao
15.Ch.K.Visweshwara Rao	42.A.Joseph Manickm
16.M.Prema Kumar	43.N.V.Rao
17.Stephen C.Koshm	44.G.Ram Mohan
18.B.R.Gopale 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.Rasheed

... Applicants

And

1. General Manager,
SC Rlys, Rail Niayam,
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

Tc ... Respondents

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} ~~scale of~~ 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 declassified on 18-12-89 and 24-10-91 respectively. They were offered alternate post in the equivalent ~~post~~ ^{pay of} 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

HTTE/KZJ had represented during DRM's inspection that his seniority was not correctly assigned. This was examined and as per instructions in vogue 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.

the seniority of
4. As per revision of Rasp seniority list, 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

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in OA 896/88 ~~and 896/88~~ decided on 30-3-93 (1993 (4) SLR

68) Narayanan & others Vs. Union of India) is not explained in the present case. He submits that even though the medically decategorised employees when absorbed in other cadre were given their seniority on the basis of length of service in the ~~parent~~ parent cadre in terms of chapter-13 of IREM, they have to be promoted when their turn comes by upgrading one of the posts so that the original employees in the cadre will not be ~~put~~ to 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 decategorised employees retires or ceases to be the employees for the reason. If such method is adopted there will not be any hard 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

absorption the upgradation takes place, ceases to be an employee of the Railways."

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.

8. We have read the judgement of this Tribunal reported in (1993 1(4) SLR 68). We find that the judgement had up-held the rules in regard to the assignment of seniority to medically de- categorised employees when ~~they~~ absorbed in some other category.

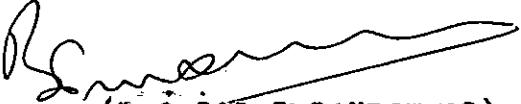
Hence, ~~xxxxx~~ the assignment of seniority of respondents 4 and 5 as per said in the category of HTTE/HTC/the rules have to be followed. The only point to be considered is whether the observation as extracted above is to be implemented or not in this O.A. To ascertain that position, we ~~have~~ ^{learned} asked the standing counsel for the respondents to /the action taken by the railway board in regard to that observations.

Standing Counsel for the respondents today produced letter
dtb.13-9-93 wherein it is stated that "It is not found feasible to
accept it as it is not practicable to provide for temporary up-
gradation of the post at each stage in the case of absorbing medi-
cally decategorised persons". The ~~remarks of~~ ~~xxxx~~ ~~xxxx~~
extends that the Railway Board is very clear and needs no
further elaboration about

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

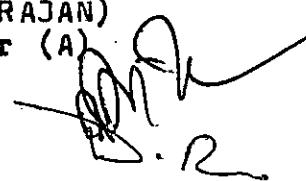
are
letter of the Railway Board dt.13-9-93, if they aggrieved,
in accordance with the law. We are not expressing any opinion
in that connection as this letter is not challenged in this O.A.
Counsel for the applicants submit that the letter dt.13-9-93 has not
been given to them and hence he prays to have 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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OA.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

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 1

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

DATED: 29/4/98

~~ORDER / JUDGMENT~~

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

in
D.A. NO. 1530

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

