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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :
AT HYDERABAD.

O.A. NO.172 OF 1995.

Date of Order- 24-02-1998.

BETWEEN :

SMT. P. JYOTHI BAI

... APPLICANT

A N D

1. UNION OF ...
General Manager, South Eastern
Railway, Garden Reach,
Calcutta- 700 043,
West Bengal.
2. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta-700 043,
West Bengal.
3. Chief Project Manager,
South Eastern Railway ,
Dondaparthi,
... 530 004
4. Divisional Railway Manager,
South Eastern Railway,
Dondaparthi,
Visakhapatnam- 530 004. ...

RESPONDENTS

COUNSEL FOR THE APPLICANT : MR. G.RAMACHANDRA RAO

COUNSEL FOR THE RESPONDENTS : MR. C.V. MALLA REDDY, CGSC.

C O R A M :

HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

HONOURABLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDICIAL)

ORAL ORDER.

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

1. Heard Mr. G. Ramachandra Rao, learned counsel for the applicant and Mr. C.V. Malla Reddy, learned Standing Counsel for the respondents.

2. The applicant was selected by the Railway Service Commission to the post of Typist in the Open Line of South Eastern Railway. It is submitted that for

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want of an immediate vacancy in the Open Line, she was temporarily appointed as Typist in an existing vacancy in the office of the Engineer-in-Chief (Works), South Eastern Railway, Waltair by proceedings dated 7.7.1964. Since then she has been working there.

3. By proceedings dated 28.7.1970 (Annexure-5) ^{her} the ~~then~~ ~~in the year~~

Rs.110-180 was fixed at Headquarters office at Garden

4. The applicant submitted a representation dated 21.1.1986 for considering her case for keeping lien in Waltair Division in terms of the CPO/GRC's letter No.P/R&R/Constn.Pt.V/4776 dated 20.5.1965 (Annexure-3). When she had represented her case so late for keeping her lien at Waltair even though she was informed about it way back in the year 1970, the then Deputy Chief Personnel Officer, Waltair

the Headquarters for doing the needful in regard to fixation of her lien in Waltair Division for the purpose of seniority, confirmation and further promotion to the cadre post of Waltair Division vide Annexure-7 at page 23 of the O.A. Subsequently, she submitted another representation dated 24.2.1992 for expediting the decision in her case. Respondent No.3 once again addressed a letter dated 25.2.1992 vide Annexure-9 at page 27 of the O.A. to Respondent No.2 for considering the case of the applicant herein as requested in the earlier letter dated 19.11.1987. Respondent No.2 by letter No.P/R&R/Lien/L dated 16.12.1992 (Annexure-10 to the OA) requested Respondent No.4 for giving the bio-data of the applicant and to let the Headquarters office know if she ^{could} ~~can~~ be absorbed in the Waltair Division with full seniority to enable his office to

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consider the change of lien. This correspondence went on for some time and by letter No.WPV/PB/106/Typist/Lien dated 5.3.1993 (Annexure 14 to the O.A.), the Waltair Division said that it has no objection to accommodate the applicant presently working as Ad hoc Typist in Construction Organisation under SPO(C) VSKP with full seniority as suggested by the CPO/GRC provided a Senior Typist (or at least Senior Typist) is transferred from Headquarters (cadre to Waltair Division cadre which appears to be the only office vide its letter No.P/H-7/97/CAO(O)/VSKP/LdRc dated 22.7.1993 had refused to transfer any post but it had no objection for her transfer from GRC to VSKP if she ^{could} be accommodated within the existing cadre of Waltair Division. Respondent No.3 by his letter No.WPV/PB/186/Typist/Lien dated 28.12.1994 finally decided that the case of the applicant for change of lien from Garden Reach to Waltair Division cannot be considered as both the Headquarters and the Division are not willing to part with their post and the transfer of lien may create some IR problem in the Division and thus her request was turned down.

5. The learned counsel for the applicant submits that a number of her juniors who were selected along with the applicant were given lien of their choice in accordance with the Headquarters office letter dated 20.5.1965 (Annexure-3). Further the Railway Administration has itself accepted that there was a mistake in not fixing her lien in Waltair Division in the initial stage itself in accordance with letter dated 20.5.1965 and her case was rejected by the Respondent organisation due to the inability on their part to provide a post with appropriate status in the Division and for other reasons which are stated to be I.R. problems. Hence the learned counsel for the applicant

submits that it is a fit case for giving relief as prayed for in the O.A.

6. This O.A. is filed praying for calling for the records relating to the case No. WPV/PB/186/Typists/Lien and to set aside the impugned order dated 28.12.1994 passed by Respondent No.4 with consequential directions to the respondents herein to fix the applicant's lien in the post of Typist in Waltair Division of South Eastern Railway or transfer the lien from Headquarters office of South Eastern Railway, Garden Reach, Calcutta to Waltair Division of South Eastern Railway, and attendant benefits.

7. The respondents submit that the applicant cannot ask for change of her lien from Garden Reach to Waltair Division at this ^{belated} late stage when she was informed about her lien wayback in 1970 itself. Further the applicant even if lien is given in a particular Division can be transferred to other places in accordance with the Railway Establishment Rules. If she has to be posted in Waltair Division on administrative grounds, this will cause protests from others as she will be given seniority above certain Typists of Waltair Division. On this count, the respondents request that the case has to be dismissed.

8. When the applicant requested for a relief which is belated, it ^{was} ~~is~~ for the respondents to reject such a request on the ground of limitation. But for the reasons best known to them, they ~~have~~ entertained her application in 1987 and continued that case as if they are going to provide some relief to the applicant by transferring her lien from GRC to Waltair by making correspondence between Headquarters office, GRC and the Construction Organisation at Waltair on one hand and the Waltair Division on the other. Thus the respondents

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themselves are fully responsible for reviving the case when the case ^{Could have been} ~~can be~~ closed at the initial stage itself in the year 1987 as time barred. Having given some sort of hope to the applicant by corresponding with the Headquarters office and the Waltair Divisional office, the respondents cannot now take a plea that this case is barred by limitation. Hence the contention of limitation of the respondents has to be rejected and is rejected. There is no doubt that the applicant will get seniority as per her date of promotion in the cadre of Head Typist if she is posted as Head Typist in Waltair Division. That may cause some hardship to those who are promoted as Head Typists in Waltair Division after the date of her promotion which will rank them junior to her. Thus the applicant has not impleaded those persons as parties to this O.A. Hence, the applicant's case has to be decided considering the hardship that will be caused to the others in view of her administrative transfer of her lien to the Waltair Division. No doubt, if the applicant is posted as Head Typist in the Waltair Division, the other employees who will be affected by this posting, will resort to industrial action by approaching the Trade Unions and that may cause some problem in running the Division.

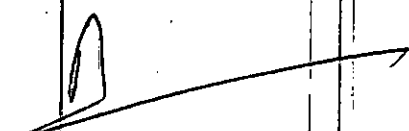
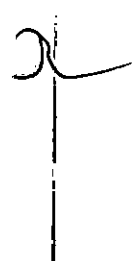
9. Considering the above aspects, a solution which will not cause problems to the Administration and to the applicant has to be given.

10. The learned counsel for the applicant submits that the applicant is a lady of above 55 years. Her husband is working in the Waltair Division. If she is transferred from the Construction organisation, Waltair Division to some other Division, she will be put to lot of difficulties as she has to leave her family and she will be put to harassment. She is interested to keep her lien at Waltair Division with the sole purpose of

staying at Waltair so that her personal problems will be solved.

11. In view of the above submissions, we are of the opinion that the whole issue can be solved if the applicant is retained at Waltair. Though the learned counsel for the applicant submits that the Construction Organisation is going to be wound up, no definite indication to that effect is available nor the applicant is able to produce any details of closure of Construction organisation at Visakhapatnam. The Construction Organisation at Visakhapatnam is reported to have started wayback in the year 1980 and it is also reported that there are number of works to be ^{executed} ~~performed~~ in ~~running~~ the Waltair Division. Hence it appears that the closure of Construction Organisation in Waltair Division is not an imminent one and the above details give us to believe that the Construction Organisation at Waltair may not be closed within a short period; that too, within a period of 2/3 years. As the applicant is over 55 years old and nearing her date of superannuation, it would be advisable to retain her at Waltair either in the Construction Organisation or in the Waltair area in any other post so that her problems will be solved and also her family will not be put to inconvenience at this fag end of her service.

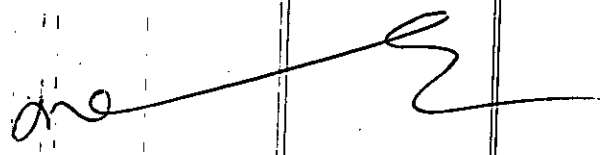
12. Considering the above aspects, we direct the respondents to retain the applicant in Waltair for another three years, ^{or till the date of her superannuation whichever is earlier} either by keeping in the Construction Organisation or elsewhere in Waltair Divisional area, even if her lien is not transferred to Waltair Division.



13. With the above direction, the O.A. is disposed
of. No costs.




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



(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

21.2.98

Dated the 24th February, 1998.
Dictated in the Open Court.


DR

DJ/

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Copy to:

1. The General Manager, South Eastern Railway,
Garden Reach, Calcutta. West Bengal.
2. Chief Personnel Officer, South Eastern Railway,
Garden Reach, Calcutta, West Bengal.
3. Chief Project Manager, South Eastern Railway,
Dondaparthi, Visakhapatnam.
4. Divisional Railway Manager, South Eastern Railway,
Dondaparthi, Visakhapatnam.
5. One copy to Mr.G.Ramachandra Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr.C.V.Malla Reddy, CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.

YLKR

11/8/98
TYPED BY
COMPILED BY

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CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

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

DATED: 24/2/88

ORDER/JUDGMENT

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

in

S.A.NO. 172/85

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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केन्द्रीय प्रशासनिक अपिभरण Central Administrative Tribunal भेषण/DESPATCH -3 MAR 1998 हैदराबाद बेंच HYDERABAD BENCH
