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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.190 OF 1995

DATE OF ORDER: 20th January, 1998

BETWEEN:

H.SIVA MOHANA RAO

... APPLICANT

1. Union of India represented by
the General Manager,
South Central Railway,
Secunderabad,
2. The Chief Personnel Officer,
S.C.Railway, Secunderabad,
3. The Divisional Railway Manager,
S.C.Railway, Secunderabad.

... RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.G.RAMACHANDRA RAO

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWARA RAO, Adl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.G.Ramachandra Rao, learned counsel for
the applicant and Mr.V.Rajeswara Rao, learned standing
counsel for the respondents.

2. The applicant in this OA while working as Junior
Truck Operator Grade II in the scale of pay of Rs.1320-2040
in the Tirupathi Shop was transferred as Junior Truck
Operator Grade II in the scale of pay of Rs.1200-1800 in
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vide S.O.O.No.40/ADMN/ENGG/95 (Annexure R-1 to the reply). The learned counsel for the applicant submits that the promotion order with retrospective effect was given to him in view of filing of this OA on 8.2.95. Hence on that basis, the applicant should also be promoted as Head Clerk on par with his junior Smt. K.Susheela with all consequential benefits. The applicant had submitted a representation to the concerned authorities for his promotion to the post of Head Clerk by his representation dated 9.8.94 (Annexure XI at page 27 to the OA). But that representation is still to be disposed of.

5. The respondents are silent in regard to his representation. They have not stated any thing in the reply why his case was not considered for the post of Head Clerk as per the seniority of the Junior Clerks issued by memo dated 11.9.93 (Annexure IV at page 16 to the OA) and his consequential promotion to the post of Senior Clerk by the promotion order dated 15.5.95 with retrospective effect from 25.4.94. Though it is stated that he was promoted as Senior Clerk as per his turn, it is not very clear why it should be with retrospective effect to 25.4.94. That would mean that the post was kept vacant for such a long time which may not be correct and is not appealing to us also. Further when the seniority list dated 11.9.93 shows^{ed} him above Smt. K.Susheela, the reason for not promoting him on the basis of that seniority list if he ^{was} found fit in the first instance^{ce} for promotion ^{to higher} ~~for lower~~ grade, is not known. The reply is also silent in this respect. No seniority list of Senior Clerk has been produced to see whether the applicant is shown above Smt. Susheela in the grade of

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the Diesel Shed, South Central Railway, Kazipet. He was medically found unfit in the medical examination held in August 1992. ^{But} Hence he was found fit for discharging duties in C-I category sedantry jobs. Hence he was appointed as Junior Clerk in the scale of pay of Rs.950-1500 as per the order dated 8.2.93 and was posted under PWI, S.C.Railway, Kondapalli. The applicant's grievance is that he was drawing the pay of Rs.1410/- at the time of medical decategorisation in the scale of pay of Rs.1200-1800 and hence his posting as Junior Clerk in the lower scale of pay of Rs.950-1500 ^{was} not warranted though he was seniority above all the Junior Clerks in that unit when posted as Junior Clerk. The respondents have also issued the seniority list of Junior Clerks as on 11.9.93 by memo No.CP/121/F-10/Admn/Engg./Senioirty dated 11.9.93 (Annexure-IV at page 16 to the OA). In that seniority list, the applicant is shown senior to Smt.K.Susheela.

3. This OA is filed prayin^g for declaration that the appllicant is deemed to have been promoted to the post of Senior Clerk and Head Clerk in the Civil Engineering Department of South Central Railway from the date his junior in the cateory of Junior Clerk Smt. K.Susheela was promoted to the said post and also grant special pay of Rs.70/- in the post of Senior clerk from the date when his junior Smt. K.Susheela was given the same with all attendant and consequential benefits including seniority and arrears of pay.

4. It is now stated that the applicant was promoted as Senior Clerk with effect from 25.4.94 retrospectively.

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Senior Clerk. In view of the above deficiencies in the reply, we are not able to come to a conclusive decision in regard to the relief asked for in this OA. Further, we are not sure whether any one will be affected if some direction is given to consider the applicant for promotion to higher grade without proper seniority list of Senior Clerks.

6. under these circumstances, we are left with no other alternative except ^{to} remand this matter back to R-3 to reconsider this issue and ^{to} pass a speaking order taking due note of the observations made by us as above. If such a speaking order is given, probably the case will become very clear and the applicant on that basis if aggrieved can further take such action as available to him for redressal of his grievance.

7. In the result, R-3 is directed to dispose of the representation of the applicant dated 9.8.94 (Annexure XI at page 27 to the OA) keeping in mind the observations made by us above and pass a speaking order in regard to the claims of the applicant in his representation dated 9.8.94. We would also impress on R-2 to hear the applicant in person before passing speaking order so that the applicant will be able to ^{project} ~~protect~~ his case coherently to R-3 during that ^{interview} ~~period~~. Time for compliance is two months from the date of receipt of a copy of this judgement.


8. With the above directions, the OA is disposed of.
No order as to costs.

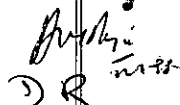

(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

20.1.98

vsn

DATED: 20th January, 1998
Dictated in the open court.


(R. RANGARAJAN)
MEMBER (ADMN.)


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Copy to:

1. The General Manager, South Central Railway, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Secunderabad.
3. The Divisional Railway Manager, South Central Railway, Secunderabad.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

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TYPED BY
COMPARED BY

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: 20/1/98

ORDER/JUDGMENT

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

in

B.A.NO. 190/95

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS
DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS.~~

II COURT

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