

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 209/95

Date of Order : 11.3.98

BETWEEN:

O.Koteswara Rao

.. Applicant.

AND

1. The Divisional Railway Manager,
S.C.Rly., Vijayawada.

2. The Senior Divisional Personnel

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.G.V.R.S.Vara Prasad

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

- - -

CORAM:

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

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

- - -

ORDER

I As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

- - -

Mr.G.V.R.S.Vara Prasad, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant was engaged as substitute khalasi in Mechanical (C&W) Department on 3.8.74. He was regularised as Khalasi in regular cadre w.e.f. 11.3.80. The applicant submitted a representation dated 15.12.94 for revision of his seniority showing him as a Khalasi in grade of Rs.750-940 w.e.f. 3.8.74. That representation was rejected by the impugned order No.B/P.613/III/C&W, dated 21.12.94 (A-1).

For

[Signature]

3. This OA is filed for setting aside the impugned order dated 21.12.94 by holding the same as illegal, arbitrary and the applicant is entitled for seniority in the grade of Khalasi w.e.f. 3.8.74 and grant him consequential promotion on that basis with all attendant benefits.


4. The only point that is to be decided in this OA is whether the applicant is entitled for seniority in the grade of Khalasi in C&M Department from the date of his engagement as Substitute that is w.e.f. 3.8.74.

5. The learned counsel for the applicant submits that an employee who has been posted on adhoc basis and subsequently regularised he is entitled for counting seniority from the date of adhoc posting provided ^{his adhoc promotion/posting} ~~which~~ is in accordance with recruitment the rules. For this he relies on Maharashtra Engineers' case delivered by the Apex Court (reported in AIR 1990 SC 1607).

6. The applicant was engaged as ²Substitute Khalasi and that engagement does not mean that he was regularly appointed to that grade. He was appointed against a regular post as a substitute and he was also given the scale of pay of Rs.196-232. That appointment no way gives him the right to be considered as a regular employee from 3.8.74 that is the date of engagement as Substitute Khalasi in the Mechanical (C&M) Department. The case referred to by the applicant is in regard to the regularisation of the adhoc promotion for a regular employee. When he was promoted on adhoc basis ^{initially} and later regularised, then such an employee should be given the seniority from the date of his adhoc promotion provided that adhoc promotion was made in accordance with the rules. The ratio laid down in that citation in no way applies to the applicant in this case. Hence we reject this contention.

7. There are Supreme Court judgements in regard to the regularisation of the casual labourers in Railways. A scheme has been formulated by the railways on the basis of the judgements of the Supreme Court in regard to regularisation of casual labourers employees in railways. Those instructions will hold good in this connection. The applicant was screened and his services were regularised w.e.f. 11.3.80. He is entitled for counting his seniority in the cadre of Khalasi in Mechanical (C&W) Department him seniority from 3.8.74 by the impugned order has been issued in accordance with the law. In case of Kameswari vs. Union of India and others (1993 (1) S.I.R. 550) the Apex Court had held that "period of temporary status service till regular absorption ^{has} on the post to be excluded for fixing the seniority. Seniority has to be reckoned from the date of regular absorption on the post". Thus the Apex Court held that para 2511 (a) (present para 2005) of IREM is in order and it cannot be challenged. The applicant has been given seniority as per the Apex Court judgement following provisions of IREM.

8. Hence the application is liable to be dismissed and accordingly dismissed. No costs.

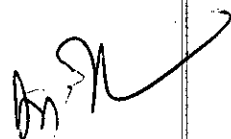

(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

Dated : 11th March, 1998

(Dictated in Open Court)

sd


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OA. 209/95

Copy to:-

1. The Divisional Railway Manager, South Central Railway, Vijayawada.
2. The Senior Divisional Personnel Officer, South Central Railway, Vijayawada.
3. One copy to Mr. G.V.R.S. Vara Prasad, Advocate, CAT., Hyd.
4. One copy to Mr. V. Rajeswara Rao, Addl. CGSC., CAT., Hyd.
5. One copy to D.R. (A), CAT., Hyd.
6. One duplicate copy.

srr

27/3/98
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. S. S. JAI PARAMESHWAR:
M(J)

DATED: 11/3/98

ORDER/JUDGMENT

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

in

O.A.NO. 209/95

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

YLKR

