

56

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.345/95

DATE OF ORDER : 19-11-1997.

Between :-

K.V.Reddy

... Applicant

1. Union of India, General Manager,
SC Rlys, Rail Nilayam,
Sec'bad.
2. Chief Personnel Officer,
SC Rlys, Rail Nilayam,
Sec'bad.
3. Divisional Railway Manager,
Traction Rolling Stock,
SC Rlys, Vijayawada Division,
Vijayawada.

... Respondents

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Counsel for the Applicant : Shri G.Ramachandra Rao

Counsel for the Respondents : Shri V.Bhimanna, SC for Rlys

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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)).

[Signature]

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[Signature]

...2.

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri G.Ramachandra Rao, counsel for the applicant and Sri V.Bhimanna, standing counsel for the respondents.

2. The applicant in this O.A. while working as Jr.Shop Superintendent in the scale of Rs.2000-3200 (RSRP) was the senior most person for promotion to the post of Shop Superintendent in the grade of Rs.2375-3500. The applicant submits that he was eligible to be promoted against the restructured post as on 1-3-93 but he was not given promotion from that date. Later his case was considered for promotion against the normal vacancies which occurred after 1-3-93 for which selection test was conducted on 12-10-93. Though he was found eligible, he was not promoted. In the meantime he has submitted a voluntary retirement letter on 14-2-95. That was accepted and he was retired voluntarily with effect from 1-5-95. In the meantime as the Disciplinary Proceedings were ~~closed~~ dropped, he was considered for promotion and was promoted by memorandum No.282/EL/TRS/ELS/Vol.II dt.6-4-95 and he was considered eligible for promotion on the basis of the suitability test held on 12-10-93. It is stated that his immediate junior one Sri M.J.Jestina who was also found eligible for promotion on the basis of the suitability test held on 12-10-93 was promoted on 12-10-93 itself. The applicant submitted a representation for promoting him against the restructured post which was rejected as he was ^a found suitable by Order No.P(EL)171/TRS/TRD/Restructuring dt.26-5-94 (Page-11 to the reply).

3. This O.A. is filed for a declaration that he is entitled

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58

for promotion to the post of Shop Superintendent in the scale of Rs.2375-3500 on par with his juniors with effect from 1-3-93 with all consequential benefits including arrears of pay, seniority etc.,.

4. In the reply the respondents do admit that the applicant was found suitable for promotion to the post of Shop Superintendent in the scale of pay of Rs.2375-3500 on the basis of suitability test held on 12-10-93. That order was issued by the memorandum dt. 6-4-95. As the applicant ^{had} ~~was~~ retired on 1-5-95 on acceptance of his voluntary retirement, he was not given any benefit of that promotion. The Respondents also submit that the case of the applicant was considered for promotion against the restructured post as on 1-3-95. He was not promoted due to his un-fitness. In ^{order} ~~all~~ to verify the facts, we have called for the records and perused the same. The Selection Proceedings conducted on 12-4-95 against restructured post was perused. The applicant got average report for the year 1990-91 and 1991-92. The last report being average even if the earlier report of 1989-90 was "Good", he could not be considered for promotion as the ^{latest} ~~last~~ report justifies his fitness or otherwise. The rejection of his suitability for promotion to the post of Shop Superintendent against the restructured post by the selection committee, and hence, the same cannot be challenged.

5. The Disciplinary Proceedings pending against the official was closed and he was promoted on the basis of suitability test held on 12-10-93 by memorandum dt. 6-4-95 to the post of Shop Superintendent in the scale of pay of Rs.2375-3500. If so, ...4.

59

there is no reason to deny atleast the notional fixation of his pay on par with his junior from the date when the said junior promoted to that grade. It is seen from the memorandum dt.6-4-95 that his immediate junior is one Sri M.J.Jestine. The applicant ^{for} is entitled to get notional fixation of pay ^{and} _{from the date} the scale of Rs.2375-3500 on par with Sri M.J.Jestine. As the memorandum for promotion was issued on 6-4-95, it is to be observed that the applicant was eligible for promotion ^{and} to shoulder the responsibilities atleast ^{on the basis of} _{from the date} he from 6-4-95. Hence his notional fixation of pay ^{should be paid} _{to him} actually from 6-4-95 as he is deemed to have been shouldered higher responsibilities from 6-4-95. On that basis his pension and pensionary benefits should be re-fixed from the date of his voluntary retirement i.e., from 1-5-95. Pay arrears from 6-4-95 and the arrears if any from 1-5-95 as per the re-fixation of pension should be paid to him.

6. The Original Application is ordered accordingly with the direction to the respondents to implement the order within 3 months from the date of receipt of a copy of this order. No costs.
(The files produced were perused and returned back)

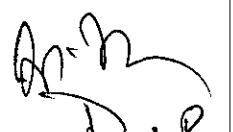

(B.S.JAI PARAMESHWAR)
Member (J)

19.(A)


(R.RANGARAJAN)
Member (A)

Dated: 19th November 1997.
Dictated in Open Court.

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7

TYPED BY
COMPIRED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B. S. DURAI

M (J)

Dated:

19/11/92

ORDER/JUDGEMENT

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

O.A.NO.

345/95

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

II Court

