

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.134/96.

Dt. of Decision : 09-09-98.

K.Murali

.. Applicant.

Vs

1. The Sr.Divl.Personnel Officer,
SC Rly, Guntakal.

2. The Sr.Divl.Mech. Engineer,
SC Rly, Guntakal.

3. The General Manager,
SC Rly, Rail Nilayam,
Sec'bad.

4. D.Rama Nayak, S/o Not known,
age 48 years, Mail Driver,
South Central Railway,
Guntakal.

.. Respondents.

Counsel for the applicant : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.C.V.Malla Reddy, SC for Rlys.

CORAM:-

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

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

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ORDER

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

Heard Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. C. V. Malla Reddy, learned counsel for the respondents. Notice ~~have~~ been served on R-4. Called absent.

2. The applicant in this OA was promoted as Shunter-A on 17-08-79 against the ST quota when he was working at Dronachalam Loco Shed in Hyderabad Division. Later in January/February, 1981 the Dronachalam Loco Shed was merged with Guntakal Division. In view of that the entire running staff of Dronachalam Loco Shed was also merged into Guntakal Division of the SC Railway. The applicant requested his promotion some time in 1982 when a list of promotion to Driver-C was issued. But it is stated that the respondents informed him that the applicant could not be promoted as the service particulars were not received from Hyderabad Division at that time. It is also stated that the promotion of the applicant will be considered soon after the details from the Hyderabad Division ^{were} ~~was~~ received ^{by} from Guntakal Division. The applicant further submits that he is an ST candidate and hence his promotion as Driver-C against that quota cannot be denied to him and in that case he will get Driver-C post much earlier or atleast on par with his junior in Guntakal Division. The applicant was promoted as Driver-C by letter No. P.535/III/1/Vol.22 dated 13-2-84 (Annexure-II). A provisional seniority list of Mail Drivers in the scale of pay of Rs.1640-2900/- was issued calling for representations from the employees in that list. In that list the applicant stands at Sl. No. 58 whereas R-4 stands at Sl. No. 10. The applicant submits that he ~~had~~ submitted a representation. His representation dated 11-6-93 and 11-9-93 was rejected by the order No. G. P. 612/III/5/Vol.8 dated 17/23-9-94 (Annexure-X).

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3. This OA is filed praying for a direction to the respondents to revise the seniority of the applicant taking into the date of entry into service in Sec'bad division for the purpose of seniority and extend the benefit extended to S/Shri S.A. Azeez and D.Rama Naik in fixing seniority duly placing the applicant in the appropriate place in the seniority with all consequential benefits like promotion, pay fixation and arrears of pay.

4. At the out set it has to be mentioned that the applicant's request for fixation of seniority in the Drivers category taking into account his initial engagement in a much lower grade. This prayer is not supported by any law/rule. The applicant has not quoted any rule to grant him seniority on the basis of his request. Hence, the application is liable to be rejected on that score itself. However, we thought it fit to further to look into this seniority dispute and pass an order on the basis of the materials available on record. The applicant was ^aShunter-A right from 17-8-79. Though he states that he officiated on adhoc basis as Driver-C when Dronechalam Loco Shed was in Hyderabad Division he has not produced any material to show that he was promoted on adhoc basis on the basis of his seniority and after following the extend rules. ^{to conclude that} Hence, the adhoc promotion given has to be regularised from that date. But he contents that his seniority should be fixed on the basis of his entry in Driver-C on adhoc promotion.

5. If such a contention is to be accepted then the applicant should have proved on the basis of the documents that the adhoc promotion granted to him when he was in Hyderabad Division was fulfilling all ^{the} conditions for a regular promotion as Driver-C. But such documents were not produced. Further the applicant was transferred to the Guntakal Division as Shunter-A. If he contend, that he is a Driver-C it is not clear why he had accepted to go to Guntakal Division accepting the lower position of Shunter-A. He could have protested at the time of joining Guntakal Division, to appoint him as Driver-C or alternatively he should have opted out of going to

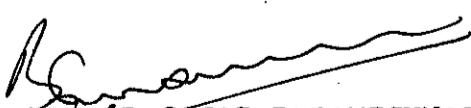
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Guntakal Division and asked the administration to retain him in Hyderabad Division so that his position will not be eroded. But no reason has been given by the applicant for going to Guntakal Division in a lower position. Even in the OA he is complaining that he is not promoted as Driver-C along with others in the year 1982. If that is so any employee entered the service of the Driver-C earlier to him should rank senior in Guntakal Division. Entry into the service will determine the seniority position in that grade. The applicant was promoted as Driver-C in the year 1984 as admitted by him. Hence, his date of entry will decide his seniority in the cadre of Driver-C in Guntakal Division.

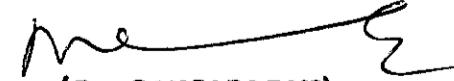
6. In order to verify whether R-4 was promoted earlier to the applicant as Driver-C, we asked the respondents' counsel to produce the promotion order of R-4 when he was promoted as Driver-C. The learned counsel for the respondents submits that the promotion order was issued way back in 1980 and hence that record is not available. However, he produced a xerox copy of the service record of R-4 for our perusal. We find from the service record that R-4 was promoted on adhoc basis way back in 1980 itself. Thereafter also he was promoted to Driver-B and Mail Driver on adhoc basis. R-4 was also promoted as Driver-B in 1981 itself. Considering the above, we are left with no other alternative except to come to the conclusion that R-4 was promoted as Driver-C in 1980 i.e., much earlier to the promotion of the applicant as Driver-C in Guntakal Division and hence he was shown senior to the applicant in the seniority list which is impugned in this OA. The rejection of the representation of the applicant in view of the above cannot be treated as illegal or irregular.

7. In view of what is stated above, the OA has to be dismissed as having no merits. Accordingly it is dismissed. No costs.

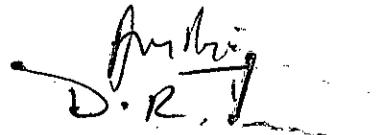

B.S.JAI PARAMESHWAR)

9.9.98 MEMBER(JUDL.)

Dated : The 9th Sept. 1998.
(Dictated In the Open Court)


(R. RANGARAJAN)

MEMBER(ADMN.)


D.R.

OA.134/96

Copy to:-

1. The Sr. Divl. Personnel Officer, S.C.Rly, Guntakal.
2. The Sr. Divl. Mech. Engineer, S.C.Rly, Guntakal.
3. The General Manager, S.C.Rly, Rail Nilayam, Secunderabad.
4. One copy to Mr. S.Ramakrishna Rao, Advocate, CAT., Hyd.
5. One copy to Mr. C.V.Malla Reddy, SC for Rly, CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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II COURT

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CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 9/9/98

ORDER/JUDGMENT

M.A/R.A/C.P.HD.

in
C.A.NO. 134/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

केन्द्रीय प्रशासन
Central Admin
प्रबंध

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT 2

ORDERED/REJECTED

NO ORDER AS TO COSTS HYC

YLKR