

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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C.A.1466/96.

Dt. of Decision : 11-09-98.

G.Srinivasulu

..Applicant.

Vs

1. The Chief Personnel Officer,  
SC Rly, Rail Nilayam, Sec'bad.
2. The Chief Works Engineer,  
SC Rly, Rail Nilayam, Sec'bad.
3. The Dy.Chief Mech. Engineer,  
Wagon Workshop, SC Rly,  
Guntapalli, Krishna District.
4. The Workshop Personnel Officer,  
Wagon Workshop, SC Rly,  
Guntapalli, Krishna District.

..Respondents.

Counsel for the applicant : Mr.P.KrishnaReddy

Counsel for the respondents : Mr.V.Bhimanna, 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 B.S.JAI PARAMESHWAR : MEMBER (JUDL.))

Heard Mr.P.Krishna Reddy, learned counsel for the applicant and Mr.V.Bhimanna, learned counsel for the respondents.

2. The applicant herein underwent Act Apprentice Training course in the year 1976.. He joined as Khalasi in Mill Wright Shop of Wagon Workshop on 10-2-78.. During the year 1979 volunteers were called for the post of Watch Repairers in the scale of pay of Rs.260-400/-(RS) in the Workshop. The applicant applied and he was selected as Watch Repairer (skilled grade) by the order dated 15-6-79. It is submitted that the Workshop was newly started <sup>and</sup> there was no avenue chart till 1-9-83. The applicant submits that other Khalasis with Act Apprentice qualification who continued in the Mill Wright Shop were promoted to skilled grade against the 25% quota allotted to them as per the Railway Boards letters dated 25-7-79 and 23-8-79. He submits that even though he was working in the Group-C post on adhoc basis, he must be continued to be a permanent employee of the Mill Wright Shop of Wagon Workshop. On 1-10-82 a combined seniority list of Mill Wright Shop was published, as on 15-6-79. In the said list the applicant was shown as Watch Repairer and was placed at Sl.No.47. He was promoted as Skilled Gr-II Watch Repairer in the month of February, 1984. The seniority list of Artizans of the Mill Wright Shop was published on 27-2-87 as on 1-2-87. The applicant's name was shown in the said seniority list as Watch Repairer was omitted during the year 1987 seniority list. In the year 1987 options were given to Watch Repairer to opt to any one of the 4 trades held in the Mill Wright Shop. Hence, the applicant opted, then the 3rd respondent vide letter dated 19-2-88 interpolated his seniority against Sl.No.72 A in between 72 and 73 in the seniority list of Mill Wright Fitter trade in the scale of pay of Rs.950-1500/- (RSRP) published as on 1-2-87 as on 27-2-87.

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3. The applicant is aggrieved because his seniority position in the Fitter Grade was lower<sup>ed</sup> down as he was a skilled Fitter i.e., Clock Repairer from 1979 onwards. Hence he submitted a representation for upgrading his seniority in the skilled category from the date he was promoted as Clock Repairer in the scale of Rs.260-400/-. However, it is stated that that representation was not considered and he was given no reply in this connection. Hence, the applicant submits that he kept on representing his case. He was replied by the impugned order No.GR/P.614/A/3/1/Vol.III dated 7-2-96 (Annexure-II). The applicant submits that his case was rejected on 7-2-96 and hence he is approaching this Tribunal for the relief of giving him seniority in the skilled grade from 1979 onwards and not from 1987 when he was promoted as Skilled Fitter on the basis of his option.

4. This OA is filed to set aside the impugned order No.GR/P.614/A/3/1/Vol.III dated 7-2-96 (Annexure-II) and for a consequential direction to the respondents to revise the seniority of the applicant by giving him seniority in the grade of Skilled grade III Fitter from the date when his juniors were promoted as Skilled Grade Fitter i.e., 26-11-79 with all consequential benefits and further promotion etc.

5. A reply has been filed in this OA. The reply is based on the materials contained in the impugned order dated 7-2-96. In para-2 of that reply it is stated that he was promoted purely on temporary and adhoc basis as Watch Repairer in the year 1979. It is also stated that the avenue chart <sup>was</sup> were not finalised by then. The learned counsel for the applicant <sup>accepts</sup> ~~attempts~~ that ~~the~~ his promotion order as Watch Repairer indicates that his promotion as Watch Repairer is only temporary on adhoc basis and is also stated so in his promotion order. But he contends that the ~~statement in the~~ avenue chart were not finalised is not indicated in his promotion order as Watch Repairer. Hence, <sup>omission</sup> ~~option~~ of that particular statement is made to defeat his case.

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6. It is a fact that the applicant was promoted only temporary and on adhoc basis as Watch Repairer in the year 1979. It is also seen in the impugned reply dated 7-2-96 that the options were called for from the Khalasis to opt for one of the trades in which they can be promoted to the skilled category. It is stated that the applicant had not given his option till 1987. When he gave his option in the year 1987 he was promoted as Skilled Fitter in accordance with the rules. Since, he had not given his option till 1987 his case was not considered for promotion to the skilled category in the appropriate trade.

7. The learned counsel for the applicant submits that he was a Watch Repairer in the skilled grade and hence the question of giving any option did not arise at that time. When he found himself in a position when he was not given the promotion on par with his juniors he woke up and gave his option in 1987 and accordingly he was posted in the skilled category. In view of that, he submits that he should be promoted as skilled category right from the date when his juniors were promoted on 17-04-79 and on that basis he should be given the seniority. It is not his fault in not opting to a particular trade as he was Watch Repairer at that time. Hence stating that he was not promoted because of his non-option to any trade from 1979 onwards his seniority cannot be denied. Further it is also stated that he was not aware of any option asked for in the year 1979.

8. We have heard both the sides. The very fact that the applicant was on temporary on adhoc basis promoted as Watch Repairer. It is evident that the applicant had no locus-standi to treat him as an employee in the skilled grade from 1979 onwards when he was promoted as Watch Repairer. That order cannot give him permanency in skilled grade as he was still to be promoted regularly as a skilled Fitter and for that he should have taken action, as was necessary. It is not possible for the department to inform the

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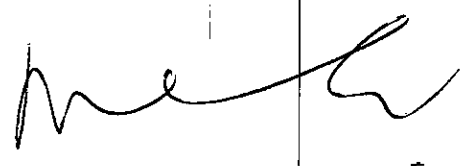
notice of option to each and every employee and it is posted on the notice board. His colleagues would have responded to the notification. Hence, the applicant cannot contend that he was not aware of the options particulars in the year 1979. Hence, the contention has to be rejected. Further, the applicant requests for seniority from 1979 onwards. His seniority was shown between 72 and 73 as 72 A way back in the year 1988. If that be the case it is not understood why he had not challenged that seniority position then itself. Repeated representations will not extend the period of limitation. If such a decision is given upgrading his seniority then those who had been promoted to skilled grade and shown senior to him will be affected by that direction. In that case the applicant should have impleaded them also as parties so that the case could have been decided after hearing the affected parties. No affected parties have been impleaded in this OA. The applicant submits that he is challenging the latest letter dated 7-2-96. It is seen from that letter that his representation dated 15-12-94/22-11-95 had been replied in this letter. It is not understood why the applicant had represented very belatedly. A belated representation cannot give cause of action. He should have represented his case, ~~xx~~ in time. More than that, the reply clearly states that what is stated in the reply is only a factual position. A statement of factual position cannot be understood as rejection of his representation. The factual position clearly indicates why he cannot get the relief of higher seniority. The reply appears to be in order.

9. We also find that the applicant failed to approach this Tribunal when the post of Watch Repairer were treated as ex-cadre post. That decision was taken much later than 1979. If treating the post of Watch Repairer as ex-cadre post was going to affect his future then he should have challenged that order for treating the post of Watch Repairer as ex-cadre and should have stated that the vacancies of Watch Repairer arising after the issue of that order only should be treated as ex-cadre post and not the post in which he was posted as a Watch Repairer earlier to that order. That too, it appears was not challenged by him.

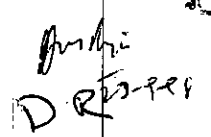
10. In view of what is stated above, the OA is liable to be dismissed ~~and~~ not only on limitation but also on merits.

11. In view of the above, the OA is dismissed. No order as to costs.

  
(E.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)  
11.9.98

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

Dated : The 11th Sept. 1998.  
(Dictated in the Open Court)

  
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## Copy to:

1. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
2. The Chief Works Engineer, South Central Railway, Railnilayam, Secunderabad.
3. The Dy. Chief Mech. Engineer, Wagon Workshop, South Central Railway, Guntupalli, Krishna District.
4. The Workshop Personnel Officer, Wagon Workshop, South Central Railway, Guntupalli, Krishna District.
5. One copy to Mr. P. Krishna Reddy, Advocate, CAT, Hyderabad.
6. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
7. One copy to HBSJP, M(J), CAT, Hyderabad.
8. One duplicate copy.

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20/10/98

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II COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 11/9/98

ORDER/JUDGMENT

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

in

C.A.NO. 1466/96

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLR

