

CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO.1486 OF 1996.

DATE OF ORDER:- 25th NOVEMBER,1997.

BETWEEN :

S. VIJAYA GOPAL ... APPLICANT

AND

1. Union of India,
Represented by General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad.
2. Chief Personnel Officer,
South Central Railway,
Rail Nilayam,
Secunderabad.
3. Deputy Chief Mechanical Engineer,
Carriage Repair Shop,
South Central Railway,
Tirupathi -517 506,
Chittoor District. ... RESPONDENTS

COUNSEL FOR THE APPLICANT :- MR.G.RAMACHANDRA RAO

COUNSEL FOR THE RESPONDENTS:- MR. C.V.MALLA REDDY

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

HONOURABLE MR.B.S.JAI PARAMESHWAR, MEMBER (JUDICIAL)

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O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar,Member(Judicial))

1. Heard Mr.G.Ramachandra Rao, the learned counsel for the applicant and Mr.C.V.Malla Reddy, the learned Standing Counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act, 1985. The application was filed on 16.12.1996.

3. The facts giving raise to this O.A. may, in brief, be stated thus:

(a) The applicant is presently working as Machinist (Highly Skilled) Grade-I in the Carriage Repair Shop, South Central Railway, Tirupathi.

(b) The applicant was appointed initially as Khalasi on 27.8.1974 in the Loco Shed, Guntakal. He was promoted to Semi-skilled category Machine Operator on 27.11.1979. Later he was promoted to officiate as Skilled category Machine Turner vide proceedings No.G/P.539/III/R&M/ANC dated 14.4.1982 issued by the Senior Divisional Personnel Officer, South Central Railway, Guntakal.

(c) The Railway Board in its proceedings No.B(P&A)1-82/JC-1 dated 13.11.1982 took a decision to reclassify the posts in the Workshop and Open line. The said decision was taken to give retrospective effect from 1.8.1978. As per the reclassification of posts, the applicant was classified as Skilled Artisan staff. The applicant was confirmed in Skilled category with effect from 18.4.1983. Annexures-1 to 3 are the letters confirming the above service particulars. It may be stated that the applicant was promoted as Machine Operator (semi skilled category) subject to his passing

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three months from the date of promotion i.e. from 14.4.1982(Annexure-1 at page 10 of the O.A.).It is not mentioned whether the applicant had fulfilled the said condition before 14.7.1982.

(d) The Carriage Repair Shop (in short,"CRS"), Tirupathi was established in the year 1982-83. By notification No.P/137/Mech/C&W/TPTY dated 8.12.1981 options were invited from the staff volunteers working in the Loco Shed, Wagon, Carriage Depots of Mechanical departments of RMWS of Lalguda, Hubli and Guntupalli. The last date for giving option was 10.1.1982. Subsequently the last date was extended till 15.11.1982.

(e) The applicant gave his option to work in CRS,Tirupathi. Thereafter he was transferred from Guntakal Division to CRS, South Central Railway,Tirupathi on 24.12.1984. He was observed in the CRS in the semi-skilled category. At CRS,Tirupathi the applicant was promoted as Machine Turner on 30.10.1985. He was promoted as High Skilled Grad-II Machinist on 24.10.1986. He was promoted as Highly Skilled Grade-I Machinist on 9.2.1991. Annexures 4 to 6 to the O.A. relate to his service particulars and promotions at CRS,Tirupathi.

(e) The main grievance of the applicant is that though he was working in the skilled category in the parent department when he gave his ^{option to work} at CRS,Tirupathi, he should have been absorbed in the CRS,Tirupathi only in the skilled grade and whereas,he was wrongly absorbed in the semi-skilled grade. At that time an optee who had volunteered to work at CRS,Tirupathi had filed an application registered as O.A.No.151/92 before this Tribunal questioning his absorption in CRS,Tirupathi. That O.A. was decided on 23.2.1995. The applicant

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claiming himself to be similarly placed as that of the applicant in OA 151/92 submitted a representation challenging his absorption in CRS, Tirupathi. His representation was rejected on the ground that he was not a party to the ^{said} OA and that the said judgment was in personam and could not be categorised as a judgment in rem.

(f) It is submitted that another employee claiming to ^{be} similarly placed as that of the applicant in OA 151/92 had filed another OA No. 706/96. The said OA was decided on 9.8.1996. Relying upon the observations made in OA 706/96 the applicant claims that he is also eligible to the benefits given to the applicants in OAs 151/92 and 706/96. The learned counsel for the applicant during course of his arguments stated that the applicant is entitled to the benefits and his absorption in CRS, Tirupathi was not accordance to the grade he was holding at the time when he opted. An attempt was made to state that the decisions in O.As. 151/92 and 706/96 were general in nature. In fact, at the time of decision in OA 706/96 though the respondents submitted that the applicant in OA 706/96 was similarly placed as that of the applicant in OA 151/92, this Tribunal did not accept the said contention and considered on merits the claim of the applicant in OA 706/96 and for the reasons recorded thereunder, gave certain reliefs similar to ones granted in OA 151/92. Therefore, in our humble view the decisions in OAs 151/92 and 706/96 cannot be categorised as general law applicable to all or any optees opted to work in CRS, Tirupathi pursuant to the letter dated 8.12.1981.

4. The respondents have filed their counter disputing the service particulars of the applicant.

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They state that the applicant was appointed as Khalasi on 21.2.1977 and not 27.8.1974. However, the service particulars of the applicant earlier to his option are not in dispute. As on 27.11.1979 the applicant was working as Machine Operator(semi-skilled).

5. Coming to the notification dated 8.12.1981 inviting volunteers, the respondents specifically stated that the date 15.11.1982 was the crucial date for determining the status of the optee; that the staff who earned promotion on account of reclassification of posts could not be absorbed in their grades in CRS, Tirupathi. It is their contention that promotion earned by the optee-staff on account of reclassification of posts by the Railway Board's letter dated 13.11.1982 could not be considered and therefore, the status of the optee-staff prior to the reclassification of posts was taken into consideration. Accordingly they submit that as on 27.11.1979 the applicant was working as a semi-skilled Machine Turner and that therefore, he was absorbed in semi-skilled grade in CRS, Tirupathi.

6. The other contention raised by the respondents in their counter is that the application is clearly barred by time as the applicant's claim relates to 1984. On 24.12.1984 he came to work in CRS, Tirupathi on option. The applicant was fully aware that he was absorbed in the semi-skilled category in the CRS, Tirupathi. It is their main contention that if the applicant was aggrieved by his option in the semi-skilled category on 24.12.1984, then he should have immediately approached the proper judicial forum for his redressal. They further state that they sought clarification from the Headquarters as to how an optee could be absorbed in CRS, Tirupathi and that the

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Headquarters by its letter dated 2.2.1984 had clarified the position specifically instructing not to recommend promotion earned by an optee-staff on account of reclassification of posts. They have produced the letter dated 2.2.1984. It is at Annexure-R/1. The relevant part reads as under :

" It has been decided that in such cases the optees will be transferred only in the Semi-skilled/unskilled grade which they were holding at the time of exercising the option."

That means, even though the applicant was working as skilled grade Machine Turner from 27.11.1979, it is the contention of the respondents that he was absorbed in the semi-skilled grade.

7. The respondents submit that on 15.11.1982 was the material date for considering the status of the optees. They further state that after the decision in OA 151/92 they gave benefits to the applicant therein.. But since the order passed by the Tribunal was not general in nature, they implemented the order only with respect to the applicant in that OA; that if any revision of seniority at this distance of time is made contrary to the option conditions given, then it may lead to dispute among the optee-staff members and that the O.A. be dismissed with costs.

8. During course of arguments, the learned counsel for the applicant mainly stressed the fact that the case of the applicant is similar to that of the applicants in OAs 151/92 and 706/96. It is to be noted that as per the order dated 27.11.1979 the applicant was working as a semi-skilled Machine Operator. He was promoted and officiated as Skilled category Machine Turner vide proceedings dated 14.4.1982 by the Senior DPO, Guntakal.

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This clearly goes to show that by the time the applicant gave his option to work in CRS, Tirupathi, he was promoted to officiate as Skilled category Machine Turner. This was even prior to the Railway Board's letter dated 13.11.1982 wherein the reclassification decision was communicated. Therefore, it cannot be said that the applicant had earned promotion to the skilled category on account of reclassification of posts. The applicant gave his option to work in CRS, Tirupathi on and from 24.12.1984. At that time the applicant was working as skilled category Machine Turner.

9. Thus the grievance of the applicant that he was absorbed in the CRS, Tirupathi under semi-skilled category appears to be genuine. He has not earned the said promotion to the skilled category on account of reclassification of posts by the Railway Board in its letter dated 13.11.1982. The learned counsel for the respondents submitted that the respondents would look into this matter if the applicant submits a detailed representation regarding the promotions earned by him in his parent department earlier to reclassification of posts by the Railway Board. The post fitted in after reclassification and the post to which he was absorbed in the CRS, Tirupathi.

Hence we do not wish to express any opinion on the merits of the matter. The respondents are at liberty to consider the point of limitation, also while taking into consideration the various facts to be represented by the applicant in his representation.

9A. The applicant, if so advised, may submit a detailed representation as to how his case can be considered as similar to that of the applicant in OA

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151/92 or OA 706/96. If such a representation is submitted to the competent authority, the said authority shall take into consideration the various factors and the rules in force and decide the representation in accordance with law.

10. Hence, we pass the following directions :

(a) The applicant may, if so advised, furnish a detailed representation to the concerned competent authority for his absorption against a proper category at Carriage Repair Shop, Tirupathi on his giving option to work therein from 24.12.1984. The applicant shall submit the said representation within a month from the date of receipt of a copy of this order.

(b) If such a representation is received within the time stipulated above, then the concerned competent authority shall consider the grounds urged by the applicant and also consider whether the case of the applicant is similar to that of the applicant in OA 151/92 or OA 706/96 and dispose of the same in accordance with rules. The concerned authority shall dispose of the said representation within two months from the date of its receipt. The concerned authority shall give a suitable reply to the applicant thereon.

11. The O.A. is disposed of with the above directions. No order as to costs.


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


(R. RANGARAJAN)
MEMBER (ADMINISTRATIVE)

DATED THE 25th NOVEMBER, 1997.

DJ/



DA.1486/96

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. The Deputy Chief Mechanical Engineer, Carriage Repair Shop, South Central Railway, Tirupathi.
4. One copy to Mr. G. Ramachandra Rao, Advocate, CAT., Hyd.
5. One copy to Mr. C.V. Malla Reddy, Addl. CGSC., CAT., Hyd.
6. One copy to BSJP (J), CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

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6-12-97
TYPED BY
COMPARED 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.JAI PARAMESHWAR :
M.(J)

Dated: 25/11/96

ORDER/JUDGMENT

M.A./R.A./G.A.NO.

in
O.A.NO. 1486/96

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

