

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.92/96.

Date of decision: 24th June, 1998.

Between:

K. Balakrishna Rao. Applicant

and

1. Union of India represented by its General Manager, S.E.Railway, Gardenreach, Calcutta-43.
2. Divisional Railway Manager, S.E.Railway, Visakhapatnam -4. .. Respondents.

Counsel for the applicant: Sri P.B.Vijayakumar.

Counsel for the respondents: Sri N.R.Devaraj.

CORAM:

Hon'ble Sri R.Rangarajan, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT:

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

Heard Sri P.B.Vijayakumar for the applicant and
Sri N.R.Devaraj for the respondents.

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The applicant in this O.A., while working as Goods Driver 'B' was promoted as Driver "A" in the scale of Rs.550-700 on adhoc basis with effect from 21.4.1983 (Annexure R-1 to the ~~xxx~~). While he was holding the post of Driver "A" due to accrual of two vacancies of "A" Spl. Driver in the scale of Rs.550-750, he was promoted to that post ^{Not by point} ~~against the roster point~~ to be operated at that time were 3 A and 4 A i.e., 1 UR and 1 ST. The applicant was promoted against ST point as he was the only available ST candidate having put in two years of service in the lower grade i.e., Driver "A". That promotion was given on adhoc basis. He was posted to WAT/Kothavalasa section on adhoc basis by the order dated 28-5-1996 (O.O.No. WPV/MR/117/Spl./Pt.II Annexure R-3 to the ~~xxx~~). He assumed charge of that post of Driver 'A' (Spl.) on 10.6.1986 and on completion of L.R. duties he was ~~posted~~ promoted on adhoc basis with effect from 11.7.1986 (Annexure R-4 to the reply). The applicant while working as Gr.A(Spl) driver was promoted as ATFR in the scale of Rs.1600-2660 and further promoted as Traction Foreman (TFR) in the scale of Rs.2000-3200 on adhoc basis by Order No. WPV/RSO/I dated 13.1.1987 and posted at BCHL. He accepted the posting and joined the post on 26.1.1987 (Annexure R-5 to the reply). // The competent Authority reverted him back as Driver Gr. 'A" (Spl.) due to his poor performance as Traction Foreman

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by Order No. WPV/RSO/I/145 dated 29.10.1987 (Annexures R-6 and R-7 to the reply). The applicant reported back to L/Wlatair on 18.11.1987. When the upgradation took place for promotion to the post of Gr.'A'(Spl)Driver, Respondent No.2 opined that the applicant was not a fit person for empanelment for the post of Gr.'A'(Special) Driver even under modified selection. Hence the applicant was reverted as Driver "A". The applicant retired from service on 15.6.1992 on medical de-categorisation. The respondents submit that the applicant was offered alternate post on medical decategorisation but he was not willing to accept the same and opted for voluntary retirement and on that basis he was voluntarily retired.

This O.A., is filed seeking a direction to the respondents to revise the pay of the applicant by nullifying the reversions of the applicant from the post of Traction Foreman to Driver "A"(Spl.) and Driver "A"(Spl.) to Driver "A" for the purpose of retiral and pensionary benefits and consequently to direct payment of the pension and terminal benefits basing on such revision with effect from the date as directed by this Tribunal.

The applicant was reverted way back in the year, 1988 and he retired voluntarily in the year, 1992. He has filed this O.A., for the above reliefs on 5.6.1995.

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The delay was explained by the learned counsel for the applicant. The applicant ^{kept} ~~keep~~ on submitting representations for continuing him in the higher post and as his request ^{to} was not heeded ^{by} ~~by~~ the respondents, he was forced to file this O.A.

In this O.A., the applicant filed M.A.760/95 for condoning the delay in filing the O.A. which was disposed ^{of} ~~on~~ on 23.1.1996 condoning the delay subject to the condition that in ^{case} the applicant succeeds the monetary benefit will be limited from one year prior to the date of filing the O.A.

The learned counsel for the applicant submits that the delay had already been condoned by the order dated 23.1.1996 in the above referred M.A. The direction in the M.A., clearly indicates that the delay in filing the O.A., was condoned but the latches do not appear to have been condoned. Be that as it may, we do not want to go into the merits of this case as the merits of this case are in regard to the legality of reverting the applicant from the TFR post to Gr."A" (spl)Driver from Gr.A(S1)Driver post to the Grade "A" Driver.

While we were examining the case, the learned counsel for the applicant submitted that he will ^{be} ~~satisfy~~ if the respondents are directed to pass suitable orders on his representation dated 3.8.1993 (Annexure A-2 to the O.A.)

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according to law. He also submits that ^{he} will further take up this issue with the respondents for fixation of his pension as requested in the O.A.

In view of the above submissions of the learned counsel for the applicant, the O.A., is disposed of directing the Respondent No.1 to dispose of the representation of the applicant dated 3.8.1993 (Annexure A-2 to the O.A.) in accordance with the rules sympathetically, though the representation is addressed to the 2nd respondent on the basis of the ^{cl} copy of the ^{had} ^{been} said representation which ~~was~~ already marked to the General Manager, S.E.Railways, Respondent No.1 herein. Hence, there will be no problem to the Respondent No.1 to dispose of the representation of the applicant dated 3.8.1993. If the representation of the applicant is not readily available, a copy of the representation may be obtained by Respondent No.1 from the 2nd respondent. If the applicant requests any personal hearing, Respondent No.2 shall give him the ^{-al} person ~~hearing~~ hearing. The Respondent No.1 shall dispose of the representation of the applicant within four months from the date of receipt of a copy of this Judgment.

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Copy to:

1. The General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Divisional Railway Manager, South Eastern Railway, Visakhapatnam.
3. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.R.Devraj, ~~Adik~~ Sr.CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

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16

II COURT

TYPED BY
COMPARED BY

CHECKED 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: 24/6/98

ORDER/JUDGMENT

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

in

O.A.NO. 92/96

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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