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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No.23 OF 1996.

Date of Order: 4-8-1998.

Between:

CH.Rama Rao.

.. Applicant

A N D

1. Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
2. Divisional Railway Manager,
South Central Railway,
Vijayawada Division, Vijayawada,
Krishna (District).
3. Divisional Mechanical Engineer (Diesel),
South Central Railway, Vijayawada Division,
Vijayawada, Krishna District.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.B.Narasimha Sharma

COUNSEL FOR THE RESPONDENTS: Mr.V.Bhimanna

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (AS PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.M.C.Jacob for Mr.B.Narasimha Sharma
for the Applicant and Mr.V.Bhimanna for the Respondents.

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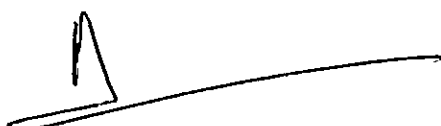
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2. The applicant in this OA was appointed as Apprentice Mechanic (Diesel Electrical) in Vijayawada Division of South Central Railway on 7-12-1983. After successful completion of his training of two years, he was posted as Chargeman-'B' (Diesel Electrical) in the scale of pay of Rs.420-700 with effect from 12-12-1985. Thereafter, after completion of two years of working as Chargeman-'B', he was promoted on adhoc basis by Respondent No.3 as Chargeman-'A' by his proceedings No.B/P.676/III/DSL/Vol.II, dated:10-2-1988. It is stated that the above was done in consultation with the Head Quarter's office when Respondent No.3 sent the letter No.B/M/DSL/P/Vacancies, dated:7-12-1987 seeking permission of the competent authority to promote the applicant on adhoc basis as Chargeman-'A' in the scale of pay of Rs.1600-2660/-. The above information is also admitted by the respondents in their reply in Para.3. Though the submission of the applicant that the permission was sought for from the Head Quarters, ^{is denied} ~~deny-~~ ^{by the respondents, now} ~~ing~~ the Annexure-I letter bearing No.B/M/DSL/P/Vacancies, dated:9-12-1987, indicates that the issue was discussed with CITE/DSL/SC, hence denial cannot be taken in the face value.

3. The applicant was regularly promoted by Order No.P/535/R&M/DSL/CHG'A', dated:6-9-1995 (Annexure-V to the OA). He was given seniority ~~from~~ from that date in the cadre of Chargeman-'A'. The applicant submits that, he should be given the seniority in the grade of Chargeman-'A' with effect from the date of adhoc promotion i.e., 11-2-88.

4. This OA is filed praying for a direction to the respondents to regularise the service of the applicant

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in the post of Chargeman-'A' (Diesel Electrical) with effect from 11-2-1988 with all consequential benefits even though regular promotion order was issued later on 6-9-1995 as he had fulfilled all the conditions required for promotion to the post of Chargeman-'A' even at the time of his promotion as Chargeman-'A' on adhoc basis.

5. A reply has been filed in this OA. The Diesel shed, Bezawada, Moola Ali and ~~Lube~~ Oil Filter Plant form ~~from~~ one single seniority unit of Chargeman-'B' and Chargeman-'A'. The applicant was posted as a Chargeman-'B' after he ^{had} completed training in Diesel shed, Bezawada (Electrical Wing). Thus the seniority unit of the applicant is borne as the combined seniority list of Diesel shed, Bezawada, Moola Ali and Lube Oil Filter Plant. The senior-most eligible candidate who is working as Chargeman-'B' in that combined seniority unit is to be promoted as Chargeman-'A' in that combined unit. Nowhere it is stated in the reply that the applicant ^{was} ~~is~~ not the senior most Chargeman-'B' when he was promoted on adhoc basis in the year 1988 in that combined unit. The respondents only submit that the seniority list should be finalised by Vijaywada Division for the category of Chargeman-'B' and that seniority list was not issued. Hence the promotion of the applicant as Chargeman-'A' is irregular. It is not understood the reason for not publishing the seniority list of Chargeman-'B' by the Vijayawada Division. If the respondents failed to issue the seniority list ^{in time} ~~the~~, the employees cannot ^{be} ~~allowed~~ to suffer on that ^{count} ~~the~~. Hence non-issuing of the seniority list of Chargeman-'B' by the Vijayawada Division ^{is} ~~has~~ no reason to deny the relief asked for in this OA by the applicant for granting him seniority

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in the cadre of Chargeman-'A' with effect from the date ~~he~~ was promoted as Chargeman-'A' on adhoc basis.

6. The respondents further submit that the promotion to the Chargeman-'A' is to be issued by the Head Quarters and not by the Division. The respondents submit that, issue of adhoc promotion by Respondent No.3 is not valid. If so, soon~~er~~-after that adhoc promotion^{was} issued by Respondent No.3, Respondent No.1 ^{could} ~~should~~ have set aside that Order. Even ^{when} ~~when~~ by the Proceedings dated: 7-12-1987, the Division asked for permission to promote ^{the applicant} ~~to~~ the post of Chargeman-'A', the respondent no.1 did not give any categorical reply. Now stating in the reply that no permission was given to Respondent No.3 to promote the applicant as Chargeman-'A' cannot be countenanced unless record^{ed} proof is shown to us. No such record^{ed} proof is available. Further it looks that a tacit approval was obtained by the Respondent No.3 in view of the letter dated: 9-12-1987 at Annexure.I to the OA.

7. In that view, the issue of adhoc promotion to the post of Chargeman-'A' by Respondent No.3 should not be a reason for rejecting his request for giving him the seniority in the cadre of Chargeman-'A' from the date of adhoc promotion, provided he fulfill^{ed} all the other conditions as provided for in the Recruitment Rules for the post of Chargeman-'A' *at the time of adhoc promotion.*

8. In the DIRECT RECRUIT CLASS-II ENGINEERING OFFICERS' ASSOCIATION Vs STATE OF MAHARASTRA & OTHERS, case, reported in 1990 SCC, Vol. II, Page. 715, it was held that, an adhoc promotion following the Recruitment Rules will

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give the promoted employee seniority from the date of his adhoc promotion. In this case, it looks that the applicant fulfilled all the conditions, such as, seniority, service eligibility and other conditions as per Recruitment Rules for promotion to the post of Chargeman-'A'. Non-issue of the seniority list of Chargeman-'B' by the Respondent No.3 and non-issue of the promotion order on adhoc basis by Respondent No.1 should not stand in the way of the applicant to get the seniority in the cadre of Chargeman-'A' from the date when he was promoted on adhoc basis i.e., 11-2-1988.

9. In view of the above fore-going, the applicant should ^{be} deemed to have been promoted on regular basis as Chargeman-'A' with effect from 11-2-1988 if he ^{had} ^{ed} fulfilled the Recruitment Rules for promotion to that cadre ^{on that day.}

10. The O.A. is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)

MEMBER (JUDL)
6/8/88


(R. RANGARAJAN)

MEMBER (ADMN)
H.P.
D.R.

Dated: this the 4th day of August, 1998

Dictated to steno in the Open Court

DSN

DA.Nos.23 & 24/98

Copy to:-

1. The Chief Personnel Officer, South Central Railway, Rail Nilayan, Secunderabad.
2. The Divisional Railway Manager, South Central Railway, Vijayawada Division, Vijayawada.
3. The Divisional Mechanical Engineer (Diesel), South Central Railway, Vijayawada Division, Vijayawada.
4. One copy to Mr. B.Narasimha Sharma, Advocate, CAT., Hyd.
5. One copy to Mr. V.Bhimanna, Addl.DGSE., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

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12/8/98
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: 4/8/98

~~ORDER~~/JUDGMENT

~~M.A./R.A./C.P.NB.~~

in

C.A. NO. 23/96

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज // DESPATCH

11 AUG 1998

हैदराबाद ब्याचपीठ
HYDERABAD BENCH