

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

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C.A. 352/96.

Dt. of Decision : 12-08-98.

1. T. Narendra Kumar
2. M.A. Naidu
3. N.V. Chandra Sekhar
4. S. Appala Raju
5. M. Krishna Rao
6. P. Rama Rao
7. K. Rama Rao
8. KVSSSP. Rao
9. R. Sai Kumar
10. M.N. Harish Babu
11. P. Syamala Rao
12. S. Appa Rao
13. G. Jagannatha Rao
14. N.G.S. Rao

15. J. Gangadhara Rao
16. B. Narasingarao
17. M. Eswara Rao
18. A. Venkateswara Rao
19. M.V. Appa Rao
20. S. Paul Kennedy
21. Venkatesh Raju
22. K. Murali Mohan Rao
23. D. Meha. Sai Prasad
24. S.M. Zafrullah
25. R. Eswara Rao
26. Y.S.N. Reddy
27. T.V. Rao
28. Saleem Khan.

.. Applicants.

Vs

1. The Union of India rep. by
the General Manager,
SE Railway, 11, Garden Reach,
Calcutta-43,
2. The Chief Personnel Officer,
SE Rly, 11, Garden Reach,
Calcutta-43.
3. The Divl. Rly. Manager,
SE Rly, Waltair Division,
Visakhapatnam-4.

.. Respondents.

Counsel for the applicants : Mr. G. Ramachandra Rao
Counsel for the respondents : Mr. N.R. Devaraj, Sr. CGS.

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.G.Ramachandra Rao, learned counsel for the applicants and Mr.N.R.Devaraj, learned counsel for the respondents.

2. There are 28 applicants in this OA. While they were working as Fireman Gr-II they were promoted as Assistant ~~XXXXXX~~ Drivers in the Electric Traction of Visakhapatnam Division in various dates between 1989 and 1991. They were regularised as Assistant Drivers from a later date in 1993. They were not given the seniority as per their date of entry as adhoc Assistant Drivers from the date they were promoted between 1989 and 1991. It is stated that the applicants had submitted number of representations for treating them as regular Assistant Drivers from the date of their initial adhoc promotion. But that was rejected by the impugned order No.P/L/13/M/RG/D.Asst./Post/Elect. dated 28-2-95 (Annexure-XIV). It is stated in the order that even though they were Fireman Gr-II they were promoted as Assistant Driver as Fireman Gr-I who are seniors to them have not opted and they continued in the Steam Cadre.

3. This OA is filed for setting aside the impugned order No.P/L/13/M/RG/D.Asst./Post/Elect. dated 28-2-95 on the file of R-2 with all consequential attendant benefits including promotion to the next higher post as otherwise the applicants will be put to great hardship and irreparable loss.

4. The main contention of the applicants are as follows:-

(1) The applicants were promoted even though they were Fireman-Gr-II following the regular selection procedure for but laid down xx/Fireman Gr-I, /since seniors to them had not opted to work as Asst. Drivers, ~~xxxxxxx~~ the applicants were promoted in accordance with the rules.

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(2) The selection made while promoting them on adhoc basis was in accordance with the rules without any deviation. Hence, it cannot be said that they were promoted without following the extant instructions for promotion.

5. The respondents have filed a reply. The learned counsel for the respondents while arguing submitted that if the adhoc promotions were made in accordance with the rule then the applicants are entitled for regularisation from the date of their adhoc promotion if that adhoc promotions are followed by the regular promotion. He further adds that the above submission is in accordance with the judgement of the Apex Court as reported in 1990 (2) SLJ 40 SC (The Direct Recruit Class-II Engineers Officers' Association and Others Vs. The State of Maharashtra and Others).

6. From the above submissions it appears that the applicant though promoted the rules are not followed. It is also presumed from the above submission that though they were promoted on adhoc basis between 1989 and 1991 and were regularised in the year 1993 none in between were promoted as Asst. Drivers superseding the seniority of the applicants. The learned counsel for the respondent also submit that there were no promotions as Asst. Drivers in between the dates when the applicants were promoted as adhoc Asst. Drivers till they were regularised in the year 1993, because of the date of regularisation assumes importance in the following instances:-

(1) If some one is appointed regularly in between the date of adhoc promotion and regular promotion.

(2) The pay fixation on regularisation is not done taking into account the pay drawn by them while working as adhoc Asst. Drivers.

(3) If it affects their further future promotions.

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7. It is seen that the applicants had not put to disadvantage on any of the counts initiated above. When the applicants are not affected by any of the above counts, ^{in net} showing their [<] the date of regularisation from the date of ~~his~~ ^{ad hoc} promotion, it will no way affect the applicants herein. From the impugned order it is seen that when they were promoted as ^{ad hoc} (Asst. Drivers they had not put in minimum two years of service as Fireman Gr-II. The Asst. Driver is a safety category and hence the Railway Board has instructed by letter No.F(NG)I-75-PMI-44 dated 26-5-84 that the promotion to the Asst. Driver can be given only if one had put in minimum of 2 years of service as Fireman Gr-II. That is one of the conditions for promotion to the post of Assistant Driver. ^{As} Even the Fireman Gr-I ^{was} ~~are~~ not promoted as they had not opted ^{who were} for the post of Asst. Driver, ~~and hence~~ the applicants ^{Bar} ~~are~~ Fireman Gr-II were promoted superseding them, that will not be a reason to state that the applicants were promoted in accordance with the rules. The rules clearly stipulate that the Fireman Gr-II should have put in 2 years of service for promotion to the post of Asst. Driver which is a safety category. The accidents are ^{gale} ~~gallery~~ in Railways. Hence ignoring the ^{rules} ~~orders~~ for promotion will be ^{fraught} ~~filled~~ with dangerous to the railways as well as to the public. Hence, when the respondents insist that one should have put in two years of service for regular promotion as Assistant Driver, it cannot be said that it is irregular. But the train services cannot be stopped as it is a public utility service. Some employees have to be found whether ~~ad hoc~~ or permanent to run the train services. The object of running the train services cannot be ignored on any other count. As there were not enough Asst. Drivers and the Fireman Gr-I were not willing to shoulder ~~of~~ the responsibility of the Asst. Drivers via-media option was taken to ~~be~~ promote Fireman Gr-II on ~~ad hoc~~ basis even though they had not completed two years of service as Fireman Gr-II in the exigencies of the service. Hence, the applicants

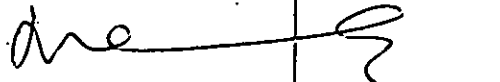
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cannot demand regularisation from the date of the adhoc promotion when they have not fulfilled the minimum requirement of two years of service as Fireman Gr-II for promotion to the post of Assistant Driver. It is stated in the impugned order that all the applicants were regularised from the date they ^{had} completed the two years of services in accordance with the Railway Board's letter dated 26-5-84. Hence, we feel that the impugned order dated 28-02-95 has been issued with proper reasons and hence challenging the letter may not be in order.


8. ^{here} In view of what is stated above, the OA is dismissed for want of merits. No costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 12th August, 1998.
(Dictated in the Open Court)

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Copy to:

1. The General Manager, South Eastern Railway,
11, Garden Reach, Calcutta.
2. The Chief Personnel Officer, South Eastern Railway,
11, Garden Reach, Calcutta.
3. The Divisional Railway Manager, South Eastern Railway,
Waltair Division, Visakhapatnam.
4. One copy to Mr. G. Ramachandra Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyderabad-
6. One copy to D. R. (A), CAT, Hyderabad.
7. One duplicate copy.

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24/8/98

II COURT

TYPED BY

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 G. S. JAI PARAMESHWAR :
M(J)

DATED: 12/8/98

ORDER/JUDGMENT

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

in

C. A. NO. 352/96

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
प्रेषण / DESPATCH

20 AUG 1998

हैदराबाद ब्याचपीठ
HYDERABAD BENCH