

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 624/96

Date of Order : 21.8.98

BETWEEN :

P.Ramachandra Raju

.. Applicant.

AND

1. The Union of India, Rep. by
General Manager, S.C.Rly.,
Secunderabad.
2. The Chief Personnel Officer,
S.C.Rly., Secunderabad.
3. The Deputy Chief Mechanical Engineer,
Carriage Repair Shop, S.C.Rly.,
Tirupathi.
4. The Workshop Personnel Officer,
Carriage Repair Shop, S.C.Rly.,
Tirupathi.
5. J.Murali
6. B.Hari Babu

.. Respondents.

7.

Counsel for the Applicant

.. Mr.S.Ramakrishna Rao

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

Mr.S.Ramakrishna Rao, lea-rned counsel for the
applica nt and Mr.V.Rajeswara Rao, learned standing
counsel for the respondents.

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2. The applicant in this OA was shown in the provisional final seniority list of artisan staff of the Mechanical Department of Carriage Repair Shop, Tirupathi in the scale of pay of Rs.1200-1800 (RSRP) at Sl.No.63 in the seniority list of Painters enclosed to the provisional seniority list dated 21.1.94. Subsequently another provisional seniority list was issued bearing No.TR/P.612/ART/Vol.IV dated 18.3.96 (A-1) asking for representations from the concerned employees in regard to their listing of the name in that seniority list. The applicant in that seniority list stands at Sl.No.83. The applicant submitted a representation stating that :

(1) he was posted to the grade of artisan earlier to 12.5.88 and hence he should get the seniority from the date he occupied that post;

(2) that there were no seniority lists issued earlier to 12.5.88 and hence the direction given in OA.219/92 is not applicable in his case.

3. The applicant's representation was disposed of rejecting the same by letter No.TR/P-612/Art/Mech dated 25.5.96. The remarks offered are reads as below :-

"(1) The revision of seniority was done in accordance with the judgement of Hon'ble CAT in OA.No.219/92.

(2) There was no ambiguity in the judgement regarding the seniority list pertaining to period prior to 12.5.88. Though the seniority list was not published, the administration had list of seniority and the same has been used to implement the CAT's judgement in the above mentioned OA. Thus the revision of seniority has been done correctly."

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4. Aggrieved by the above reply the applicant has filed this OA praying for calling of the records leading to the issue of seniority list dated 18.3.96 and the memo dated 25.5.96 whereby his representation was rejected and for a consequential direction to set aside those proceedings by holding them as arbitrary, illegal and unwarranted. He also prays for further direction to the respondents to prepare the seniority as per extant rules following the mandatory provisions of para 302, Chapter III, Indian Railway Establishment Manual, Vol.I and also for a direction to the respondents to follow the earlier seniority list dated 29.1.94 (A-2) for promotions until the ^{whereby} new seniority list as prayed for as above.

5. O.A.219/92 was disposed of by the following order :-

"(6) From the above analysis, we direct as follows to fix the seniority between the direct recruits and promotees :-

- (i) All the Skilled Artisans Gr.III who were promoted either on adhoc basis or otherwise prior to 12.5.88 have to be shown above the direct recruits appointed on 13.5.88/19.5.88.
- (ii) 50% of the Skilled Artisans calculated as per the last seniority list prior to 12.5.88 issued for Skilled Artisan Gr.III trade-wise had to be noted for further fixing the seniority of direct recruits, and promotees promoted on or after 12.5.88.
- (iii) Direct recruits to the extent of 50% as calculated in para-(ii) above should be placed in the seniority list below the promotee Skilled Artisans referred in Cl.(i) in the appropriate trade-group.
- (iv) Equivalent to the number as in item-(iii) above, those promoted on 12.5.88 should be placed below the direct recruits as indicated in para-(iii) above.
- (v) Fixing of seniority alternatively between the direct recruits and the promotees as indicated in

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paras-(iii) and (iv) above should be continued till the whole list of direct recruits appointed on 13.5.88/19.5.88 and the promotees promoted on 12.5.88 is completed."

6. From the above direction in OA . 219/92 it is evident that the rule of filling up of posts ^{by} the promotees as well as direct recruitment has to be adhere to. It has been clearly stated that 50% of skilled artisans calculated as per the last seniority list prior to 12.5.88 issued for skilled artisan has to be noted for further fixing the seniority of direct recruits and promotees promoted on or after 12.5.88. It is also directed that direct recruits to the extent of 50% as calculated in para6(ii) should be placed in the seniority list below the promotees skilled artisans referred to in para-6(i) of that order. It is also directed that equivalent to the number as in item 6(iii) above those promoted on 12.5.88 should be placed below the direct recruits as indicated in para6(iii) above and it should be continued till the whole list of direct recruits appointed on 13.5.88/19.5.88 and the promotees promoted on 12.5.88 is completed.

7. From the above it is very clear that the promotees promoted on 12.5.88 can get the seniority above direct recruits only if they are within the 50% of the vacancies to be filled. If their cases ^{do not fall} in 50% vacancies then ^{those vacancies} ~~can~~ can be filled by the direct recruits to the extent of 50% of the vacancies. Just because there was no seniority list as on 12.5.88 it does not mean that the organisation worked without any seniority list of artisan staff. It may be presumed in that case that a seniority list can be prepared even at a later date by showing ^{seniority positions of} the ~~artisans~~ by the date of entry in that grade.

8. Some of the optees who wanted to come to carriage repair shop, Tirupathi were not relieved in time due to ^{exigencies} ~~existence~~ of service, when their juniors were relieved earlier to seniors. Then the seniors joined Tirupathi work shop later. In that case this Tribunal in number of cases had decided the senior official who joins later, than a junior optee from the same cadre then the senior optee has to be shown above the junior if the senior optee was not relieved from the units due to exigencies of service. Even if the senior optees came later they have to be shown above the junior optees till the "cadre is closed" in Tirupathi Shop. Hence there is no need to adjudicate in this connection. The rules are very clear. The only point is whether those rules are followed meticulously in fixing the seniority of the applicant. This is a factual verification. This need to be done by the respondents. The respondents in consultation ^{with} ~~of~~ the applicant can examine the issue in regard to the seniority of the applicant on the basis of the existing rules as indicated above. If there is any difference of opinion between the applicant and respondent then the same can ^{be} put up to the Chief Personal Officer of the Railways for deciding the issue once for all on the basis of the above.

9. In the result, the following direction is given:-

R-4 should fix up a meeting with the applicant on a mutually agreeable date to examine the issue as indicated above and prepare a joint note recording the views of both sides. If there are no differences the same also should be recorded. If there is a difference in the views then that note should be put up to R-2 for deciding the issue on the basis of the existing rules and the direction of this Tribunal given earlier which has been indicated ^{above} in a concise form. In case it is found necessary for R-4 to call R-5 and 6 also he may issue notice to them also to attend the meeting.


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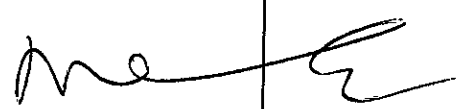
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10. Time for compliance is 2 months from the date of receipt of a copy of this order.

11. With the above direction the OA is disposed of.
No costs.


(B.S. JAI PARAMESHWAR)
Member (Judl.)

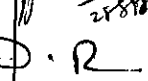
21.8.98


(R. RANGARAJAN)
Member (Admn.)

Dated : 21st August, 1998

(Dictated in Open Court)

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SA.524/96

Copy to :-

1. The General Manager, South Central Railway, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Secunderabad.
3. The Deputy Chief Mechanical Engineer, Carriage Repair Shop, South Central Railway, Tirupathi.
4. The Workshop Personnel Officer, Carriage Repair Shop, S.C.Rly., Tirupathi.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT., Hyd.
6. One copy to Mr. V. Rajaswar Rao, Addl. CGSC., CAT., Hyd.
7. One copy to J.R.(A), CAT Hyd.
8. One duplicate copy.

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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 PARAMESWAR :
M(J)

DATED: 21/8/98

~~ORDER/JUDGMENT~~

~~M.A./R.A/C.P.113.~~

in

C.A. NO.

624/98

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

