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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.706/96

decided on : 9-8-96

Between

N.M. Raju Maistry

: Applicant

and

1. Union of India, rep. by the
General Manager, SC Rly.
Railnilyam, Secunderabad

2. Chief Personnel Officer
SC Rly., Rail Nilayam
Secunderabad

3. Dy. Chief Mechanical Engr.
Carriage Repair Shop, SC Rly.
Tirupathi, Chittoor Dist.

4. Workshop Personnel Officer
Carriage Repair Shop, SC Rly.
Tirupathi, Chittoor Dist.

: Respondents

Counsel for the applicant

: S. Ramakrishna Rao
Advocate

Counsel for the respondents

: J.R. Gopal Rao
SC for Railways

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HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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[Signature]

Judgement

Oral Order (per Hon. Mr. Justice M.G. Chaudhari, VC)

Mr. S. Ramakrishna Rao for the applicant. Mr. J.R. Gopal Rao standing counsel for the respondents. Heard.

2. The applicant seeks declaration that he be deemed to have been transferred to Carriage Repair Shop of South Central Railway, Tirupathi, in the semi skilled grade as Semi-skilled Optee, with all consequential benefits and seeks direction to the respondents to refix his seniority by reckoning the same in the grade of Semi-skilled with effect from 24-3-1982 i.e. from the date of his juniors having been promoted in his parent unit and to promote him to the next higher post and duly extending benefits of the order in the OA.151/92 dated 23-2-1995, and to provide him consequential benefits including eligible quarters.

3. The applicant was initially appointed as Khalasi on 28-4-1981 in the Wagon Workshop. He was appointed as HSK II General Fitter in Carriage Repair Shop, SC Rly., Tirupathi. Subsequently, Government of India (Railway Board) reclassified certain semi-skilled and unskilled grades reducing the staff vide notification dated 13-11-1982. The benefit of that scheme was extended retrospectively from 1-8-1978. The applicant was promoted to the semi skilled grade with effect from 9-7-87 in pursuance of that scheme. Carriage Repair Shop^{Tirupathi} was established in the year 1982. There upon options were called from the staff working in different Branches of Mechanical Department in the Divisions to be absorbed

at CRS, Tirupathi. The applicant gave his option to accept absorption at Tirupathi. He was, however, transferred from Wagon Workshop, Guntupalli, to CRS, Tirupathi, on 22-12-1986. On his transfer he was absorbed as Khalasi in the lower grade on the ground that at the time of exercising option he was working as Khalasi. It is the case of the applicant that at the time of his transfer to Tirupathi, he was working in the semi-skilled category as General fitter. He was further promoted to the skilled category on 12-5-1988 in the skilled grade III. Hence, on completion of two years of service in the skilled category he was promoted as HSK II on 1-8-1991. It is his contention that his seniority in the semi-skilled grade ought to be counted from 24-3-1982 when his juniors and were promoted/as that request was not conceded by the respondents, he filed the OA.

4. Heavy reliance is placed on the decision of this Tribunal in OA.151/92. In that OA the applicant was already in the semi-skilled grade when he exercised option to be absorbed in CRS, Tirupathi, as Semi-skilled Welder. It was held that therefore he had to be absorbed in the Semi-skilled grade from 1982. Mr. Ramakrishna Rao states that the said applicant, therefore, has been given the benefit of that grade from 24-3-1982.

5. We find it difficult to hold that the instant case is covered fully by the said decision. The fact which distinguishes the instant case is that the applicant was factually placed in the semi-skilled grade in the parent department with effect from 1-1-1984. That date, therefore, will be relevant to his case and not 24-3-1982 with reference to which he has principally claimed the relief.

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With reference to the date 1-1-1984, we think that the applicant is covered by the ratio of the earlier decision. The ratio of that decision is that the employee should get the benefit of the semi-skilled grade from the time he was actually placed in that grade irrespective of the subsequent transfer to CRS, Tirupathi. We are, therefore, of the view that although the applicant was transferred to CRS, Tirupathi, on 18-12-1986 and the respondents, purported to give him promotion to the semi-skilled grade with effect from 9-7-1987, these factors will not be relevant to reckon his seniority. It was, therefore, not correct on the part of the respondents to treat him as Khalasi in the lower grade on the date of his transfer. It is, therefore, declared that the applicant was entitled to be treated as working in the category of semi-skilled grade from 1-1-1984 and his transfer to CRS, Tirupathi, should be deemed to have been made in that capacity and therefore the applicant is entitled to have his seniority reckoned in the semi-skilled grade with effect from 1-1-1984. We think that the relief prayed can be moulded appropriately in the above terms.

6. Learned counsel for the respondents stated that the office of the Dy. CME, CRS, Tirupathi, has instructed him to say that the facts in the present OA are similar to those in OA.151/92 and hence OA is covered by the judgement in OA.151/92. We have, however, examined the facts and compared them and have come to the above said conclusion. The instructions, however, indicate that the respondents have no objection to give relief to the applicant consistently

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with the judgement in OA.151/92 to the extent the facts relate to the applicant warrants the same.

7. In the result, the following order is passed :

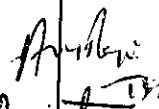
It is declared that the applicant is entitled to have his seniority fixed on the basis that he was in the semi-skilled category (semi-skilled optee category) with effect from 1-1-1984. The respondents are directed to accordingly re-fix his seniority and give him consequential benefits including the monetary benefits to which he may be eligible on that basis as early as possible.

8. The OA is accordingly disposed of.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : August 9, 96
Dictated in Open Court


Deputy Registrar (D) CC.

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O.A.706/96.

To

1. The General Manager, SC.Rly
Union of India, Railnilayam, Secunderabad.
2. The Chief Personnel Officer,
SC Rly, Railnilayam, Secunderabad.
3. The Deputy Chief Mechanical Engineer,
Carriage Repair Shop, SC Rly,
Tirupathi, Chittoor Dist.
4. The Workshop Personnel Officer,
Carriage Repair Shop, SC Rly,
Tirupathi, Chittoor Dist.
5. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
6. One copy to Mr.J.R.Gopal Rao, AC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One sparecopy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

✓
THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

✓
THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 9-8-1996

~~ORDER~~ / JUDGMENT

M.A/R.A./C.A. No.

in

O.A.No. 706/96.

T.A.No.

(w.p.)

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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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

प्रेषण/DESPATCH

28 AUG 1996

हैदराबाद बेंच
HYDERABAD BENCH