

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 794/96

Date of Order : 24.1.99

BETWEEN :

Ms.B.Raja Mani

.. Applicant.

AND

1. Union of India, rep. by
the General Manager, S.C.Rly.,
Rail Nilayam, Secunderabad.
2. Divisional Railway Manager (Works),
S.C.Rly., Vijayawada.
3. Sr.Divisional Engineer (Coordination),
S.C.Rly., Vijayawada.
4. Sr.Divisional Personal Officer,
S.C.Rly., Vijayawada.

.. Respondents.

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Counsel for the Applicant

.. Mr. Krishna Mohan

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM :

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

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

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O R D E R

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

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Mr. Krishna Mohan learned counsel for the applicant
and Mr.N.R.Devraj, learned standing counsel for the respondents.

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2. The applicant herein submits that she belongs to Mala community which is recognised as SC, that while entering into service in the railway administration she had produced the certificate issued by Mandal Revenue Officer, Vijayawada (Urban) dated 24.6.88 (A-1) that she was appointed as Junior Clerk in the scale of Rs.950-1500 in the Civil Engineering Department, Vijayawada division, S.C.Railway on 4.10.88 on compassionate grounds that thus she had served more than 7 1/2 years of service as Junior Clerk, that she became eligible for promotion as Senior Clerk in the scale of pay of Rs.1200-2400 in 1991 against the SC reserved quota that she was directed to appear for the suitability test for promotion as Sr.Clerk to be held on 11.5.91 (A-2) and that however the Sr.DPO, Bezawada by his letter dated 17.5.91 informed the applicant that she was not being considered for suitability test proposed to be held on 25.5.91 in view of the investigation being carried out by the Vigilance Branch with regard to her social status.

3. She submits that she was asked by the Vigilance Branch to produce the Transfer Certificate issued by the Educational authorities and accordingly she has produced a photo copy of her T.C.No.98 issued by the principal, S.R.R. & C.V.R. Government College, Vijayawada and that she submitted representations to consider her case for promotion as Sr.Clerk.

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4. In the meantime a provisional seniority list was issued by letter dated 8.12.93 (A-6). It is seen from the provisional seniority list the applicant ^{is} reported to be an SC community and stands at Sl.No.74 and Sri Ravi Baby who ~~is~~ ^{belongs to} also SC community stands at Sl.No.93 of that seniority list. A suitability test for Sr.Clerk in the Civil Engineering Department was issued fixing the date for written examination as 7.7.96 by letter No.B/W.349/IV/Clerks/Staff dated -6-96 (A-7). In that list the name of the applicant is not finding a place whereas the name of Sri Ravi Babu is at Sl.No.11. It is stated that her junior Sri Ravi Babu has been promoted as Sr.Clerk in the year 1996. She represented her case for promotion to Sr.Clerk ^{when} as her junior was promoted.

5. This OA is filed for a declaration that the applicant is eligible for promotion as Sr.Clerk on par with her batchmates as per the provisional seniority list of Sr.Clerks of the Civil Engineering Department, Bezawada Division as on 1.12.93 and for a consequential direction to the respondents to consider her case for promotion to the cadre of Sr.Clerk unfettered by the pending investigation in regard to her social status by the Vigilance Branch.

6. A reply has been filed in this OA. From the contents of the reply it is seen that she has been promoted from the date Sri Ravi Babu her junior was promoted. It is also stated that the applicant requested for her promotion as Sr.Clerk along with her batchmates from 1991 onwards.

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7. If she was not promoted in the year 1991 then she should have challenged that then itself ^{as} she cannot ask for ^{regular} promotion in 1991 as it is a belated prayer. The respondents also submit that soon after the investigation into her social status ^{is} concluded she will be given seniority and also promotion from an appropriate date ^{from which} the date she was eligible for such promotion. It is further added that the applicant had to wait till then.

8. The learned counsel for the applicant submits that she ^{cannot} wait ^{indefinitely} till the investigation is concluded. However ^{she} submits that proforma fixation of her pay be fixed from the year 1991 and ^{be paid by} to pay monetary benefits from the date she shouldered higher responsibilities. If the social status is decided adversely to her by the appropriate revenue authority then she can be reverted and excess of pay now paid to her be recovered at that time or she can be promoted to the Sr. Clerk on the basis of her eligibility. Further ^{she} submits that the applicant is prepared to give an undertaking to that effect.

9. The investigation in regard to her social status is still pending. It is not known when that will be completed. She has a certificate indicating her as belonging SC community from the appropriate revenue official. Till such time that certificate is cancelled by the competent authority she cannot be regarded as any other community candidate other than SC. Even the appropriate revenue authority has to cancel the certificate if the vigilance department comes to the conclusion

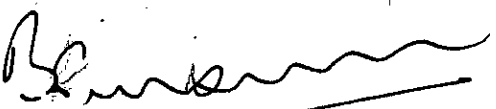
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that she is not belonging to SC community. Till then some relief can be given to the applicant at this juncture.

10. In the facts and circumstances of the case, the following directions are given :-

- (a) The applicant should be given notional seniority from the date when she became eligible for promotion to Sr.Clerk either from 1991 or from a later appropriate date. But that date should be decided on the basis of the promotion of her batchmates to the post of Sr.Clerk in the Civil Engineering department. *in accordance with law.*
- (b) Her pay should be fixed notionally in the cadre of Sr.Clerk from that date and that fixation should be carried further to fix her pay from the date ^{was} she is actually promoted on par with Sri Ravi Babu.
- (c) She is entitled for arrears of pay from the date she actually shouldered the higher responsibilities of the Sr.Clerk.
- (d) The respondents are at liberty to ~~revert~~ ^{if any paid later} her if *Following & bank rules* her caste status is decided adverse to her, and recover the excess payment ^{if any paid later} in addition to any disciplinary actions that may be contemplated.

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


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

21.1.99


(R. RANGARAJAN)
Member (Admn.)

Dated : 21st January, 1999

(Dictated in Open Court)


J-288.

Copy to:

1. HDHND
2. HHRP M(A)
3. HOSR M(J)
4. D.R. (A)
5. SPARE

1st and 11nd Court.

15/2/99

Typed By
Compared by

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Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH; HYDERABAD.

~~THE HON'BLE MR. JUSTICE D. H. NASIR:~~
VICE - CHAIRMAN

~~THE HON'BLE H. RAJENDRA PRASAD~~
MEMBER (A)

~~THE HON'BLE R. RANGARAJAN~~
MEMBER (A)

~~THE HON'BLE MR. S. S. JAI PARAMESHWAR:~~
MEMBER (J)

DATED: 21-1-99

ORDER/JUDGMENT

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

IN

D.A.NO : 794/96

~~ADMITTED AND INTERIM DIRECTIONS~~
~~ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

(8 copies)

केन्द्रीय प्रशासनिक अपीलिका Central Administrative Tribunal ग्रेप / DESPATCH
10 FEB 1999
हैदराबाद बेंच HYDERABAD BENCH