

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A.837/96.

Dt. of Decision : 07-09-98.

1. W.Pandurangadu
2. V.G.V.Rangachary

..Applicants.

Vs

1. The Union of India, rep. by the
General Manager, SC Rly, Rail Nilayam,
Sec'bad.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam, Sec'bad.
3. The Dy.Chief Mech. Engineer,
Carriage Repair Shops, SC Rly,
Tirupathi, Chittoor District.
4. The Workshop Personnel Officer,
Carriage Repair Shop, SC Rly,
Tirupathi.
5. J.Jayanand

..Respondents.

Counsel for the applicants : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.V.Rajeswara Rao, SC for Rlys.
for R-1 to R-4.

Mr.B.Narasimha Sarma for R-5.

CCRAM:-

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.S.Ramakrishna Rao, learned counsel for the applicants and Mr.V.Rajeswara Rao, learned counsel for the official respondents and Mr.B.Narasimha Sarma, learned counsel for R-5.

2. There are 2 applicants in this OA. It is stated that both the applicants gave their option to go to Tirupathi Workshop when an option was asked for on 29-6-82. At that time when they gave option it is an admitted fact that they were Khalasi. Subsequently, it is stated that they were promoted to the Semi-skilled post with retrospective effect ^{and} that date was reported to have accrued earlier to 29-6-82 when they gave the option. It is stated that the applicants were taken in Tirupathi Workshop on 18-12-86 vide office order No.GR/P.678/1/A dt. 18-12-86 (Annexure-III to the OA) as Khalasi in terms of their option given by them. The applicants submitted representation thereafter for treating them as semi-skilled from the date of their absorption in Tirupathi as they were promoted to the semi-skilled cadre earlier to the date of option by an order which was issued much later than the date when they gave option. But that was disposed of by the order ~~dated~~ No. TR/P.612/Art/Vol.III dated 8-1-92 (Annexure-IV) on the ground that they ^{had} ~~were~~ exercised their option to CRS, Tirupathi in un-skilled/Khalasi grade, their seniority was assigned based on entry into grade as Khalasi on regular measure as per the above instructions. The applicants thereafter kept quiet. In the mean time CA.151/92 was filed on the file of this Bench. In that OA the applicant therein gave option on 8-12-81 when he was a khalasi. However the applicant therein was promoted to semi-skilled grade in view of the orders of restructuring of the cadre which was issued much later and because of that order he got his promotion in semi-skilled in his parent cadre earlier to 8-12-81. The applicant in that OA approached this Tribunal praying for enlisting him as semi-skilled when he joined

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Tirupathi Workshop even though he gave his option when he was unskilled. But that option was earlier to the restructuring order and because of that order he was promoted to Semi-skilled earlier to his date of option viz., 8-12-81 and hence he ^{was} ~~should~~ be promoted as a semi-skilled employee when he gave option on 8-12-81. That OA was ~~dismissed~~ ^{dismissed} allowed by the order dated 23-2-95. Thereafter the applicants ^{herein} filed another representations dated 22-6-95 and 29-6-95 (Annexure-VII and Annexure-VIII) to give them the same relief as was given to the applicant in OA.151/92. That was disposed of by the impugned order No.TR/P.612/ART/Vol.IV dated 25-4-96 (Annexure-I). In the impugned order there is no consideration in regard to the request made by the applicants on the basis of the facts. It is only stated that the applicants are not eligible to get the relief given in OA.151/92 since, in general, the verdict of Court of Law is applicable only to those who obtain it from the appropriate judiciary.

3. This OA is filed for a direction to the respondents to reckon their seniority in the grade of semi-skilled w.e.f., 24-3-82 with all consequential benefits.

4. The respondents have filed their reply. The only point ~~for the respondents~~ made out in the reply is that the applicants had agreed to come to the Workshop after accepting ^{their} ~~his~~ position as Khalasi as can be seen from office order No.66/86 issued vide memorandum dated 18-12-86. Without challenging the same the applicants cannot ask for any relief in this OA.

5. R-5 has also filed a reply. The main contention of the R-5 is that the applicants are not similarly situated as the applicant in OA.151/92. It is further stated that the applicants having accepted to come to the Tirupathi Workshop on ^{their} ~~his~~ their own they cannot demand the relief as given in OA.151/92 to them. Hence the OA is liable only to be dismissed. It is also stated that

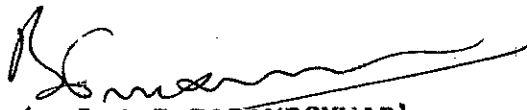
even in 1984 letter the Railway Board has stated that the date of option will ^{determine} ~~be given for fixing~~ the seniority in the grade in which an employee is working at the time of giving option.

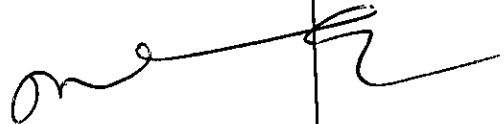
6. We have heard all the sides. The applicants have not enclosed the documents in regard to their promotion ^{with} ~~for~~ retrospective effect from March, 1982 onwards as stated by them, though they ^{are} ~~new~~ produced. In view of the earlier discussion such ^{be} ~~documents~~ ^{have} to be enclosed to the OA so that all the parties will ^{be} ~~aware~~ of such orders. In any case the reply given by the respondents dt. 25-4-96 is not warranted. If the respondents was of the opinion that the directions given in OA.151/92 is not applicable to the applicants herein then they should have stated so with reasons and rejected the application. Merely saying that they will act as per the Courts order is ^{an} ~~irrelevant~~ reply given to the applicants. We expect the principal employer to act more purposefully in disposing of the representation of their employees.

7. In view of what is stated above, we feel that the case of the applicants should be remitted back to the respondent authorities to examine the issue in toto taking all the points mentioned in this OA by all the sides and pass a speaking order with full details in accordance with law. If necessary ^{the respondents} ~~they~~ may give opportunities to others also if somebody else is going to ^{be} ~~affected~~ ^{by} the reply ^{be} ~~given~~ by them. X

8. Time for compliance is four months from the date of receipt of a copy of this order.

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


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


(R. RANGARAJAN)
MEMBER (ADMN.)

7.9.98
Dated : The 7th Sept. 1998.
(Dictated in the Open Court)