

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.843/96

DATE OF ORDER : 24-08-1998.

Between :-

1. T.Narasimha Reddy
2. B haskar Badrappa
3. B.Venkata Rao

... Applicants

And

1. Chief Personnel Officer, SC Rlys,
Sec'bad.
2. Divisional Railway Manager (MG),
Hyderabad, SC Rlys, Hyderabad/Sec'bad.
3. Sr.Divisional Personnel Officer (MG),
SC Rlys, Hyderabad/Sec'bad.
4. Sr.Divisional Mechanical Engineer (MG),
SC Rlys, Hyderabad/Sec'bad.

... Respondents

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Counsel for the Applicants : Shri A.Ravinder Reddy

Counsel for the Respondents : Shri K.Siva Reddy,CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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None for the applicant. Heard Sri K.Siva Reddy, standing counsel for the respondents. As this DA was filed in the year 1996, DA is disposed of under Rule-15(1) of the C.A.T.(Procedure) Rules, 1987.

2. There are 3 applicants in this DA. They have¹ filed earlier Writ Petition No.2017/85 on the file of the High Court of Andhra Pradesh which was transferred to this Bench and registered as TA 881/86.

3. In the TA 881/86 the applicants prayed^{for} the following relief :-

Application under Section 29(1) of the Administrative Tribunals Act, 1985 transferred from the High Court of Andhra Pradesh praying in the circumstances stated therein the Tribunal will be pleased to direct the respondents herein to consider the cases of the petitioners for promotion to the post of Fireman Grade 'B' along with the persons who were promoted under proceedings No.YP/563/P.11/1(MG)(S.O.O.No.56/ELR(MG) dt.17-6-1983 with all consequential benefits including arrears of pay.

That DA was disposed of with the following direction :-

We, therefore, direct the respondents to prepare a revised seniority list in the category of Firemen 'B' and in the category of Fireman 'A' after following usual procedure giving notice to all effected persons. The seniority list shall be prepared within four months from the date of receipt of this order. The application is accordingly disposed of. There will be no order as to costs.

The applicant^{has} now filed this DA for the consequential benefits

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in view of revision of seniority given to them by promoting them to the higher grade. They further submit that number of candidates even some of the applicants in TA 881/86 were paid the arrears in the higher grade on the basis of the revised seniority list.

4. They were informed by memo No.YP/731/ELR/Seniority/HYB dt.10-7-1995 (Annexure-I page-6 to the OA) that their case had been rejected on the following grounds :-

The judgement of Hon'ble CAT/HYD Bench was only for revision of seniority and on account of this you were promoted as Fireman 'B' with effect from 17-6-1983 and as 1st Fireman w.e.f. 1.1.86 on proforma and you were given fixation benefits thereof. Therefore you are not eligible for any arrears of pay on fixation on account of revision of seniority.

5. This OA is filed for setting aside the impugned memo No.YP/731/ELR/Seniority/HYB dt.10-7-1995 issued by Respondent No.2 and for a consequential direction to the respondents to treat the applicants as promoted as Fireman 'A' in the scale of pay of Rs.290-350 from 17-6-1983 with consequential arrears of pay.

6. The respondents in the reply had submitted that the directions given in ^TTA 881/96 had been complied with. Their seniority has been revised. Though the applicants requested for consequential direction to consider their cases for promotion to the post of Fireman 'B' along with others who ~~are~~^{were} promoted by proceedings dt. 17-6-1986 with all consequential benefits including arrears of pay in TA 881/96, the same was not ordered by the earlier Bench. Hence the applicants cannot ask for the same relief in this OA as their cases are to be rejected on the basis of rule of resju-

dicata.


7. We see point in the contentions raised by respondents. However, the applicants being poor employees we looked into the merit whether the applicants had made out any case for granting them arrears by promoting them along with others by proceedings dt.19-6-1983 and also granting them arrears of pay on that basis.

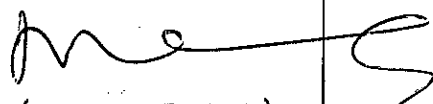
8. The respondent authorities had stated in para-4 of the reply that the General Manager has taken decision to promote 158 Fireman-C in the scale of Rs.210-290 (RS) as Fireman 'A' in the scale of Rs.290-350 (RS). There were only 158 Fireman 'A' vacancies but not 195 as mentioned by the applicants ~~Fireman 'A'~~. It is also stated in para-7 of the reply that the 158 employees promoted to Fireman 'A' were seniors to the applicants. Hence the applicants are not eligible for promotion as Fireman 'A' with effect from 17-6-83 as no juniors were given the above fixation benefits. Though they are eligible for promotion of Fireman 'B', the post of Fireman 'B' was merged with Fireman 'A' and made a single scale of pay and on that merged cadre they were not promoted. Hence the respondents submit that the applicants cannot be promoted due to the non-availability of vacancies and that the reply is in order.

9. If the applicants are of the opinion that there were more than 158 posts i.e. 195 posts, they could have easily filed a rejoinder to that effect by proving the same from records. Applicants failed to file any rejoinder and hence what is stated in the counter affidavit is to be accepted. The applicants have not stated anywhere that they are seniors to the 158 employees promoted earlier as per the order No.YP/563/P.11/1/MG dt.19-3-1991

(Annexure R-III to the counter). If the applicants are not seniors, they cannot demand for promotion to the post of Fireman 'A' even if there were more than 158 vacancies. It is for the Department to decide whether all the posts are to be filled or not. It depends on the "power plan". Hence, if they are not promoted as no more than 158 posts of Fireman 'A' is to be operated as per power plan, ~~it~~ cannot be said to be irregular as the applicants cannot request for promotion without proper work load. As the applicants have not made out any case on the lines indicated above, it is to be held that the DA has no merit.

10. In view of the forgoing, the DA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)
Member (J)
24.8.98


(R. RANGARAJAN)
Member (A)

Dated: 24th August, 1998.
Dictated in Open Court.

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DA.843/96

Copy to:-

1. The Chief Personnel Officer, South Central Railway, Secunderabad.
2. The Divisional Railway Manager (MG), Hyderabad, SC Rlys, Hyd/Sec'bad
3. The Sr. Divisional Personnel Officer (MG), South Central Rlys, Hyderabad/Secunderabad.
4. The Sr. Divisional Mechanical Engineer (MG), SC Rlys, Hyd/Sec'bad.
5. One copy to Mr. A.Revinder Reddy, Advocate, CAT., Hyd.
6. One copy to Mr. K.Siva Reddy, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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8/9/98

II COURT

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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 PARAMESHWAR :
M(J)

DATED:

24/8/98

~~ORDER/JUDGMENT~~

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

in

C.A.NO.

843/98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

-7 SEP 1998

हैदराबाद न्यायपीठ
HYDERABAD BENCH