

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.946/96

dt.3-9-97

Between

Sri B. Prabhakar Rao

: Applicant

and

1. Union of India, rep. by
General Manager, SC Rly.
Rail Nilayama
Secunderabad

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

: Respondents

Counsel for the applicant

: G. Ramachandra Rao
Advocate

Counsel for the respondents

: V. Rajeswara Rao
CGSC

Coram

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

HON. MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

Jai

[Signature]

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Judgement

Oral order (per Hon. Mr. R. Rangarajan, Member(Admn.))

Heard Sri G. Ramachandra Rao for the applicant and Sri V. Rajeswara Rao for the respondents.

1. The applicant was initially appointed as Assistant Catering Manager through Railway Service Commission, Secunderabad, and by order No.C/P/525/Catering/82/Base Kitchen dated 23-10-1982, issued by Divisional Railway Manager(BG), Secunderabad, he was posted at Kazipet in Secunderabad Division. The applicant was subsequently transferred on 31-3-1984 to Guntakal Division. Later the applicant was transferred to Vijayawada Division of South Central Division as per office order No.Comml.23/1994 dated 23-2-1994. The applicant along with others was promoted as Catering Manager in the pay scale of Rs.1200-2040(RSRP).
2. The promotion of Assistant Catering Manager is to the post of Catering Manager and thereafter to the post of Assistant Catering Inspector. The applicant submits that in the Category of Assistant Catering Manager in South Central Railways, the respondents are maintaining two different seniority lists basing on the recruitment in former Southern Railway and Central Railway Divisions. That was question of maintenance of two seniority lists of Assistant Catering Inspectors^{was} questioned by the applicant in OA.1102/91. That OA was filed praying for a direction to the respondents to maintain a single common seniority list for all Assistant Catering Managers in the entire zone of South Central Railway and the applicants may be given their respective posts in the said seniority list based on

their places in the selection of merit list published in August, 1992 and to direct the respondents to promote the applicants to the post of Catering Managers from the date of promotion to the next juniors with all consequential benefits including arrears of pay, seniority and further promotions and to declare in promoting R-4 to R-11 to the post of Catering Managers and including in the seniority list and non-entitlement of the applicant for the said promotion as arbitrary and illegal.

3. That OA was disposed of by order dated 4-10-94. The operative portion of the order reads as below :

"As it is now conceded for R-1 to R-3 that the zone is the seniority unit in regard to the cadre of Asstt. Catering Managers, the seniority list of Asstt. Catering Managers has to be prepared in regard to atleast all the Asstt. Catering Managers who were recruited after the formation of the South Central Railway on the basis of their rankings as per the select list and those who were selected at the time of former selection have to be placed above those who were selected at the time of later selection. On the basis of such seniority list, the date of promotion of the respective applicants i.e. 2, 4 to 7 and 9 has to be advanced from the date of respective junior was promoted as Catering Manager and if any such junior was promoted to the next higher post, the case of such applicants for promotion to the next higher post has to be considered and such of the applicants who have to be selected to the next higher post as per this order should be given notional promotion to the said higher post from the respective dates on which his respective junior was promoted. Such of those applicants whose promotions have to be advanced or promoted to next higher posts are entitled to all the consequential benefits including seniority. But the monetary benefit has to be given from 1-11-1990 (This OA was presented on 22-11-1991)."

4. In pursuance of the direction given in that OA, the provisional Combined Seniority list of Assistant Managers in the scale of Rs.975-1540 was issued by memo No.P(C)612/Catg.Managers/V Vol.II dated 18-1-1995 (Annexure-IV). That Provisional Seniority list has been made final. It is stated in the reply to the OA that the applicant herein has been assigned provisionally revised seniority as Catering Manager in the scale of Rs.1200-2040(RSRP) at Sl.No.25 above Sri B. Chander Rao (Sl.No.30).

That assignment of seniority has become final.

5. The applicant in this OA prays for a direction to the respondents herein to promote the applicant to the post of Catering Manager in the scale of pay of Rs.1200-2040(RSRP) with effect from 15-7-1988 when his junior was promoted to the said post with all consequential benefits including seniority and promotion to the next higher post and arrears of pay and all other consequential attendant benefits.

6. It is admitted that he is senior to Mr. B. Chander Rao in view of the revised seniority list issued on 18-1-1995. It is stated that the said Chander Rao was promoted as Catering Manager with effect from 15-7-1988. The request of the applicant in this OA ^{is} that he should have also ~~been~~ deemed to have been promoted ~~to~~ on par with his junior B. Chander Rao with effect from 15-7-88 ^{and} then he should be given arrears of pay, seniority etc.

7. The applicant acquired higher seniority above his junior Mr. B. Chander Rao only because of the direction given in the OA.1102/91. Before that his case was not determined. In pursuance of the direction given OA.1102/91 ⁱⁿ the combined seniority list was issued on 18-1-1995 and ⁱⁿ that seniority list the applicant was placed above Chander Rao. Hence the question of applicant requesting for promotion with effect from 15-7-88 cannot be upheld as he had no right at that time to claim that scale of pay. His claim for promotion to the Catering Manager on the combined seniority list has arisen only from 18-1-1995 and not earlier to that. It is stated that the applicant had been promoted as Catering Manager on 10-1-1994 earlier to 18-1-1995. Hence, the applicant cannot ask for promotion to the post of Catering Manager with effect from 15-7-1988 when

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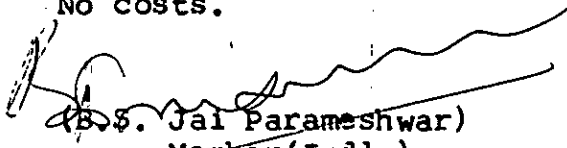
Sri B. Chander Rao was promoted on the basis of the then two seniority lists available at that time. We also considered the liability of the Administration to give him notional fixation of pay on par with Chander Rao with effect from 15-7-88. As stated earlier the right of the applicant accrued only from the direction given in OA.1102/91 in pursuance of which the seniority list was issued on 18-1-1995. The intervening period from the issue of direction in OA.1102/91 to the date of issue of Provisional Seniority list dt.18-1-1995 is too short and the respondents cannot be blamed for delay in issuing the seniority list. Hence, we are of the opinion that the applicant cannot claim any notional fixation of pay earlier to his actual date of promotion on 10-1-1994.


8. The learned Counsel for the respondents made a very vague contention that the seniority position is on the basis of the merit list. It is not clear ^{what} that the respondents want to convey by this contention. The seniority list issued on 18-1-1995 had taken note of all these points and on that basis the seniority list was made. Hence that seniority list cannot be questioned and this contention is rejected.

9. It is no doubt ^{that} the applicant has to be considered for promotion to the higher grades higher than the cadre of Catering Inspector only on the basis of the seniority list issued on 18-1-1995. It is also seen from the seniority list dt.18-1-95 that he has been placed above Sri Chander Rao. Hence, he considered and should be promoted to the higher grade only on the basis of that seniority.

10. With the above observations the OA is disposed of.

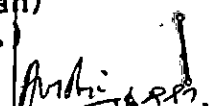
No costs.


(B.S. Jai Parameshwar)
Member (Judl.)


(R. Rangarajan)
Member (Admn.)

sk

3.9.97
Dated : September 3, 97
Dictated in Open Court


R. Rangarajan
2 R. (J)

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3.53.

Copy to:

1. The General Manager, South Central Railway,
Railnilayam, Secunderabad.
2. Chief Personnel Officer, South Central Railway,
Railnilayam, Secunderabad.
3. One copy to Mr. G. Ramachandra Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. V. Rajeswara Rao, Addl. CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

YLKR

24/9/97
23/9/97
TYPED BY
CORRECTED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. R. BHAGADJAN : M (A)

AND

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

Dated: 3/9/97

ORDER/JUDGEMENT

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

in

C.A.NO. 946/96

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

II Court

