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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A. No. 2 OF 1996.

DATE OF ORDER: 31-8-1998.

Between:

P.N. Reddy.

.. Applicant

and

1. Railway Board, rep. by its Secretary,
Rail Bhavan, New Delhi.
2. General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
3. Chief Personnel Officer,
South Central Railway, Rail Nilayam,
Secunderabad.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr. P. Krishna Reddy

COUNSEL FOR THE RESPONDENTS :: Mr. V. Rajeshwara Rao

CORAM:

THE HON'BLE SRI R. RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B. S. JAI PARAMESHWAR, MEMBER (JUDL)

: ORDER :

ORAL ORDER (AS PER HON'BLE SRI R. RANGARAJAN, MEMBER (A))

Heard Mr. P. Krishna Reddy for the Applicant
and Mr. V. Rajeshwara Rao for the Respondents.

2. The applicant in this OA was promoted as a regular Group 'B' Assistant Hindi Officer on 13-8-1982. He was later promoted as a Senior Scale Group 'B' with charge allowances from 12-5-1988 and he was given the scale of pay of Senior Scale Officer in Group 'B' service with effect from 16-10-1990. As per the recruitment rules dated: 19-6-75 (enclosed at page 14 to the reply), a Group 'B' Officer

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can be promoted as a Group 'A' Senior Scale against the promotional quota. The recruitment rules states, the Assistant Officers with eight years in the grade rendered after appointment thereto on a regular basis can be promoted to a Group-'A' service. On the basis of the recruitment rules, the applicant was eligible for consideration to Group-'A' service from 12-8-1990. But the applicant was promoted to Group-'A' service by the impugned Order No.E(GP)85/1/61, dated: 5-8-1994 substantially appointing him in senior scale as Senior Raja Bhasha Adhikari on regular basis with effect from 9-5-94. The applicant was allotted to South Central Railway by that Order.

3. The applicant submits that he had completed eight years of service in 1990 itself and hence elevating him to Group 'A' service from 9-5-1994 i.e., four years after he became eligible is incorrect. There were posts for confirmation in Group 'A' Senior Scale earlier to that date and because of the delay on part of the respondents, he was elevated to Group 'A' service from 9-5-1994 when he is eligible for consideration for promotion to that Group 'A' service way back from 1990 onwards. The applicant submitted a representation dated: 11-11-1994, whereby the applicant requested for his promotion from earlier date in 1990. That was rejected by the impugned letter No.P (GAP) 508/Hindi/P.N.REDDY, dated: 14-11-1995.

4. This OA is filed to set aside the impugned Order No.P(GA)508/Hindi/P.N.REDDY, dated: 14-11-1995 issued by Respondent No.3 by holding the same as illegal and without jurisdiction and for a further consequential direction to the respondents to treat the applicant being substantially appointed in Senior Scale as Sr.Raja Bhasha Adhikari(Group 'A')

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with effect from 13-8-1990 and give the applicant all the consequential benefits from that date.

5. A reply has been filed in this OA. The recruitment rule has been enclosed to the reply. The respondents submit that the proposal for promotion of the Hindi Officers Group 'A' service was framed and sent to UPSC for arranging DPC meeting. That was examined in the Commission's office and that took some time and hence the applicant was promoted after approval with effect from 9-5-1994. The respondents submit that they followed the instructions of the DOP & Training Circular, dated: 10-4-1989 (Annexure.R-VII). As per the Circular, it is stated, the date of promotion to Group 'A' service comes into effect from the date approved by the Commission or the date of actual promotion of the Officers which ever is later. Hence, the applicant has been given the promotion to Group 'A' service in accordance with the rules with effect from 9-5-1994.

6. We heard both sides.

7. The recruitment rule dated: 19-6-1976 clearly states that, 50% of the Vacancies under Group 'A' service is to be ordered by promotion and 50% by direct recruitment. Hence, it is clear that a quota of 50% of vacancies is to be earmarked for the promotees and other 50% to direct recruits. The respondents submit that the Railways reserve the right not to fill up any of the vacancies arising in a year for promotion to Group 'A' service. That contention can be accepted if no promotion is made to Group 'A' service by direct recruitment also. If the quota of 50% against direct recruitment is filled then the respondents cannot deny promotional quota. Even if the promotion quota is filled at a later date should get their seniority from the appropriate year after they fulfil the years of service to be put in as a regular Group 'B' Officer.

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and come within the zone of consideration for that year in question.

8. The applicant in this OA completed eight years of service on 12-8-1990 as he was promoted to Group 'B' service on 13-8-1982. For vacancies arising after that date, if he comes within the zone of consideration for promotion to Group 'A' service, his case should have been considered along with other eligible candidates if for that year there were direct recruitment, and if there are no direct recruitments, probably the applicant cannot ask for filling up the promotional quota. If there ~~are~~ ^{one} direct recruitments, to that extent, the Group 'B' service promotees should also be promoted to Group 'A' service and, therefore, their seniority vis-a-vis to the direct recruitments should be fixed in accordance with the rule for that recruitment year.

9. Hence, the case of the applicant should be considered for promotion against vacancies in Group 'A' service against promotional quota if the direct recruitment quota for that year is filled in accordance with the rules. If on that basis the applicant became eligible on 3-5-1994, he should be promoted and his seniority fixed as per rule. For his further promotion the date of entry on that basis should be reckoned.

If he is promoted earlier to 9-5-1994, he is eligible only for reckoning that period for further promotion from that date and he is not entitled for any other benefits.

10. The learned Counsel for the respondents submit that the applicant relies on the Judgment enclosed as Annexure 9 to the OA. That Judgment has got no relevance in this case.

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Further the DOP & T letter dated:10-4-1989 does not state that delays in considering the promotion proposal should be condoned.

11. The OA is ordered accordingly. No costs.


(B.S.JAI PARAMESHWAR)

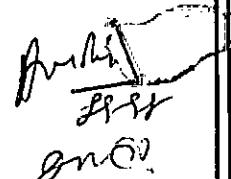

(R.RANGARAJAN)


31/8/98
MEMBER (JUDL)

MEMBER (ADMN)

Dated this the 21st day of August 1989
Dictated to steno in the Open Court

DSN


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8/8/98
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Copy to:

1. The Secretary, Railway Board, Rail Bhavan, New Delhi.
2. General Manager, South Central Railway,
Railnilayam, Secunderabad.
3. Chief Personnel Officer, South Central Railway,
Railnilayam, Secunderabad.
4. One copy to Mr.P.Krishna Reddy, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to Mr.D.R(A), CAT, Hyderabad.
7. One copy for duplicate.

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II COURT

TYED BY

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 PARAMESWAR :
M(J)

DATED: 31/8/88

ORDER/JUDGMENT

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

in

C.A.NO. 2196

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

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
शेषण / DESPATCH

11 SEP 1998

हैदराबाद स्थायी बैठक
HYDERABAD BENCH