

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD

O.A.No.1079 OF 1996.

DATE OF ORDER:24-9-1998.

Between:

1. P.Lakshmi Narasimham.
2. N.S.Vijaya Kumar. .. Applicants

a n d

1. Senior Divisional Mechanical Engineer(C&W),South Central Railway, Guntakal.
2. Divisional Railway Manager(Personnel), South Central Railway, Guntakal.
3. Union of India, represented by the Secretary, Railway Board, Rail Bhavan, New Delhi.
4. D.Shanmugan, Office Superintendent Grade-II,C&W Superintendent Office, S.C.Railway, Tirupathi.
5. G.Rangaiah, Office Superintendent Gr.II, Office of the Loco Foreman/Diesel, South Central Railway, Guntakal. .. Respondents

COUNSEL FOR THE APPLICANTS :: Mr.G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS :: Mr.V.Bhimanna

CORAM:

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

A N D

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

: O R D E R :

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

Heard Mr.G.V.Subba Rao for the Applicant and Mr.V.Bhimanna for the Respondents. Notice has been served on Respondents 4 and 5. Called absent.

2. There are two applicants in this OA. They are working as Office Superintendent Grade-II and similarly the private respondents 4 and 5 were ^{also} working as Office Superintendent Gr.II. The date of promotion of the applicants and the private respondents to the Post of

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Office Superintendent Grade-II is 23-10-1991, 1-3-1993, 30-9-1988 and 19-10-1991 respectively. Posts of Office Superintendent Grade-I had arisen after 10-2-1995 after the issue of the Judgment in VIRPAUL SINGH CHOWHAN's Case. The applicants submit that for the promotion to the Grade-I, the private respondents who are reserved community candidates should not get the benefit of date of entry to the Office Superintendent Grade-II for the purpose of fixing the seniority of the private respondents vis-a-vis the applicants. It should be fixed on the basis of the basic seniority in view of the VIRPAUL SINGH CHOWHAN's case.

3. This OA is filed praying for a direction to the Respondents 1 and 2 to revise the seniority of the applicants vis-a-vis Respondents 4 and 5 as per the Judgment of the Apex Court in the Union of India Vs. Virpaul Singh Chowhan and Others, and consider the applicants for promotion to the post of Office Superintendent Grade-I by declaring that the non-revision of seniority of the applicants as per the Apex Court's Judgment is illegal, arbitrary and unconstitutional.

4. The main point for consideration is, whether the accelerated seniority obtained by the reserved candidates earlier to 10-2-1995 should be brought down if promotion to the higher post of Office Superintendent Grade-I is to be effected.

5. We have already examined the Apex Court Judgment in R.K.SABARWAL's case as well as VIRPAUL SINGH CHOWHAN's case in OA.No.936 of 1996, decided on 8-9-1998. We had held there, that the Virpaul Singh Chowhan's case is a

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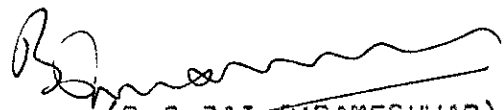
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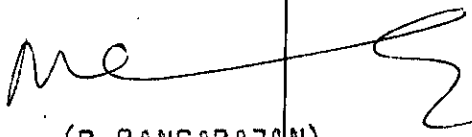
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continuation of Sabarwal's case. Virpaul Singh Chowhan's case details for promotion for reservation on that basis has been indicated in Para.7 of that Judgment. In para.7 of the Judgment in OA.No.936 of 1996, we had observed that, for promotion to the higher post for reserved candidates will be on the basis of the basic seniority in the lower grade if such promotions were made after 10-2-1995. The promotions made earlier to 10-2-1995, the date of entry will decide the seniority for further promotion. The above view is taken as in the Sabarwal's case, it has been held that the direction given in that Judgment will be prospective from 10-2-1995 to avoid unsettling the settled seniority position. The Virpaul Singh Chowhan's case is a further continuation in regard to the question for fixing the seniority. Hence, we are of the firm opinion that the accelerated promotion obtained by the reserved candidates after 10-2-1995 will not entail them to get the seniority as per the date of entry. The unreserved candidates promoted to higher post, later than the reserved candidates, who were also promoted to that higher grade after 10-2-1995, will regain their seniority in the basic grade for further promotion against unreserved quota.

6. In this OA the further promotion to Office Superintendent Grade-I is to be effected. The seniority of the applicants as well as the private respondents will be decided on the basis of the entry to the post of Office Superintendent Grade-II as all of them entered to the post of Office Superintendent Grade-II earlier to 10-2-1995.

7. In view of what is stated above, no further Orders is necessary. The OA is dismissed. No costs.


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


(R. RANGARAJAN)
MEMBER (ADMN)

24.9.98
Dated: this the 24th day of September, 1998
Dictated to steno in the Open Court

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Copy to:

1. Senior Divisional Mechanical Engineer(C&W),
South Central Railway, Guntakal.
2. Divisional Railway Manager, (Personnel),
South Central Railway, Guntakal.
3. The Secretary, Railway Board, Rail Bhavan, New Delhi.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr.V.Bhimanna, Addl.CGSC, CAT, Hyderabad.
6. One copy to ~~Rxx~~D.R(A), CAT, Hyderabad.
7. One duplicate copy.

YLKR

83/10/98

II COURT

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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 S. S. JAI PARAMESHWAR :
M(J)

DATED: 24/9/98

ORDER/JUDGMENT

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

in
G.A. NO. 1079 / 98

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH
- 9 OCT 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH