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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

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O.A.No.611/1997.

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Date of decision: 21st MAY, 1998

Between:

V.Muralikrishna Murty.

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Applicant.

And

1. Union of India represented by General Manager,
South Central Railway, Rail Nilayam,
Secunderabad.
2. Chief Personnel Officer, South Central Railway,
Rail Nilayam, Secunderabad - 500 003.
3. Railway Board represented by its Chairman,
Rail Bhagan, New Delhi 110 001.

Respondents.

Counsel for the applicant: Sri G.Ramachandra Rao.

Counsel for respondents: Sri V.Rajeswara Rao.

CORAM:

Hon'ble Sri H.Rajendra Prasad, Member (A)

Hon'ble Sri B.S.Jai Parameshwar, Member (J)

JUDGMENT

(per Hon'ble Sri H.Rajendra Prasad, Member (A))

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The applicant, while working as Electrical Foreman(A),
was empanelled for promotion to Group "B" in Loco Stream of Mechanical
Department against 70% quota through normal selection process from
lower categories. Although so empanelled, he was not found medically
fit for any post in Category "A" of Group "B" due to a defect in
his vision. The General Manager, South Central Railway, invoking

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the provisions laid down in Railway Board's letter No.E(GP)80/2/8 dated 16-12-1983(Annexure R-1), recommended the applicant's adhoc promotion to a Group "B" post despite the shortfall in Medical Standards. The said provision is as under:

- " (i) After empanelment of an employee for appointment to Group "B", if some shortcomings, which would disqualify him from being appointed to Group "B", are revealed during the medical examination, his case for appointment to Group "B" should be put up to the General Manager, who will, depending on the local circumstances and subject to the availability of a suitable post in Group 'B' decide whether the employee could be put to work efficiently and effectively in Group 'B' without the specific medical shortcomings noticed on his part, proving a drawback/handicap to the Railway working. If the General Manager considers that the employee could be promoted the matter should be referred to the Ministry with the General Manager's verbatim views and only after the approval of the Ministry is secured, the employee should be promoted."

Accordingly, the Board approved the ad hoc promotion of the applicant to Group 'B' on condition that he should be utilised in posts in the Mechanical Department which do not involve trains-working or the use of trollies on the

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open line. Whereupon the General Manager accorded adhoc promotion to the applicant clearly specifying that he should be utilised in duties not involving the use of trollies on open line, train-working, observance of signals etc., and that his services could be utilised only on such duties where lack of vision of requisite standard would not be an impediment.

It was further specified both by the Railway Board as well as the General Manager (Annexure B-3 and Annexure A-3, respectively) that the ad hoc promotion of the applicant would continue only so long as a post conforming to his medical standard would continue to be available, and that his promotion with relaxed standards as a special case would not entitle him to be considered for continuance in a Group 'B' Post as a regular measure, or for advancement to Group 'A'/Junior Scale, or for appointment to Senior Scale on ad hoc basis, so long as his medical shortcomings continued to exist. The applicant was required to give an undertaking that he would abide by the above stipulations - which he duly did. The ^{applicant} Officer assumed charge of Assistant Mechanical Engineer (Production) at Hubli on 25-1-1990 and subsequently worked as Assistant Mechanical Engineer (Fuel), Headquarters South Central Railway, and Assistant Mechanical Engineer (Planning), Headquarters South Central Railway. On 23.8.1996 the applicant submitted a representation to the General Manager requesting that his case for promotion to Senior Scale be considered. The

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representation was turned down on 30.10.1996. Aggrieved by the said rejection, the applicant has filed this O.A.

A heavy reliance is placed by the applicant on the judgment in O.A.804/91 wherein one K.Visagamani, who was placed like himself, prayed for the same reliefs as contained in the present O.A. The O.A. was disposed of with a direction to the respondents to reconsider the prayer of the said Visagamani for promotion to the senior scale on an ad hoc basis keeping in view the practice that was followed in similar cases.

The applicant in the instant case, like the applicant in the earlier O.A., cites the names of some officers who he claims are his juniors. It is to be mentioned that even in the earlier O.A., the applicant, in making a reference to the names of certain other officers, was unable to furnish satisfactorily the full particulars of those officers. The two names, Gaur and Das, cited by him were found to be relating to one officer by name Gaur Das.

The names of those officers are routinely repeated here without any attendant details. The applicant herein refers too to Sarvasri B.D.Gour, B.K.Doss, Muneazzam, Krishna Murthy, B.P.Singh, M.A.Khan(whose name he seems to refer to incorrectly^{as} T.Abdul Rehman) Vinod Rai, Velayudhan, S.T.Satyanarayana Murthy and T.Sai Ram. It is explained by the respondents that M.A.Khan was regularly promoted to

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Group 'B', the promotion of Mune-azzam was treated as regularly promoted by the Board on the merits of his case, that there is no officer /by name Krishna Murty, Divisional Engineer, in the South Central Railway, and there was no officer by name B.P.Singh; and Gaur Das, who worked in N.F. Railway, retired way back in the year 1993. The applicant thus bases his claim mostly on the case and claims of Visagamani in O.A.804/91 disposed of by this Tribunal in September, 1993.

As seen from Annexure R-2, the Railway Board completely scrapped the system of making adhoc promotions by relaxation of medical standards in 1991 itself (No.E.(GP)80/2/8 dated 31.10.1991) This decision was evidently taken with a view to maintaining higher standards of efficiency and fitness of officers in the Gazetted levels. It was clearly ruled by the Board that the names of officers who do not fulfil the prescribed medical standards should not at all be included in the panel, and that proposals for adhoc promotions should not be sent to the Board in future. This point is further elaborated by the Respondents in their counter-affidavit. It is pointed out by them that granting the prayer of the applicant would result in one more ad hoc promotion to senior scale for the same officer and this would lead to a very anomolus situation of two successive adhoc promotions

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being given in respect of every such officer. It is further stated that if the practice of considering the cases of medically unfit officers for such 'double adhoc promotions' continues indefinitely, most of the posts where safety aspect is involved will come to be occupied by officers who are medically unfit and that would adversely affect the efficiency of administration and that deterioration so caused will harm the normal efficiency expected of the Railway services.

The facts and contentions have been considered.

The applicant was fully aware that he was being promoted to Group 'B' purely on adhoc basis in relaxation of normal medical standards. He was aware also that such adhoc promotion would neither entitle him to continue in Group 'B' nor to claim any promotion in Groups 'B' or 'A', and that he was to continue to hold the promotional post only as long as appointments tenable on relaxation of medical standards continued to be available. It is significant that he duly furnished the undertakings giving his assent to these conditions. Such being the case it is not clear as to on what basis he can now go back on his own undertakings and demand further promotion(s). It is unfortunate that although he was empanelled he could not be promoted regularly. Any concession given to him as a special case would not entitle him to further concessions.

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The names of the officers whom he has cited were either promoted regularly, one of them did not exist, and one name in N.F.Railway is carelessly mentioned without any attendant details. Any claim based on such vague assertions cannot be accepted and made the basis for further entitlements and reliefs prayed for.

It is mentioned by the respondents that even in the case of Visagamani (the applicant in O.A.804/91) the promotion was reconsidered only on the directions of the Tribunal. Moreover, the applicant in the said O.A. was a graduate in law and he was performing duties connected with investigation and enquiries, while in the present case the applicant was seen to be performing only desk work in the Mechanical Wing. To that extent, the two O.As. can be distinguished from one another.

In the light of the disclosures made, ^{We are} ~~I am~~ not persuaded that the applicant, after having fully understood and having agreed to the conditions governing his adhoc promotion on relaxation of medical standards, is justified in claiming further promotions to senior scale, etc. This obviously is not admissible since the initial promotion itself was an ad hoc one by way of a significant and major concession.

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~~We~~
~~#~~ do not find enough material in the O.A., to
warrant the granting of the prayers contained in it.
The same is disallowed. No costs.


B.S. JAI PARAMESWAR

MEMNER (A)

21/5/98


H. RAJENDRA PRASAD

Member (A)

Date: 21 MAY, 1998
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Deputy Registrar

SSS.