

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDRABAD

ORIGINAL APPLICATION NO.647 of 1997

DATE OF ORDER: 16th APRIL, 1999

BETWEEN:

1. P.V.RAMAIAH,
2. M.SRINIVASAN,
3. M.SUBRAMANYAM.

.. APPLICANTS

AND

1. Union of India rep. by the
General Manager,
South Central Railway,
Secunderabad,
2. The Dy.Chief Mechanical Engineer,
Carriage Repair Shop, S.C.Rly,
Tirupathi-517501,
3. The Workshop Personnel Officer,
S.C.Railway, Carraige Repair Shop,
Tiurpathi-517501,
4. S.ARUL KUMAR,
5. K.S.VINO BABU,
6. N.JAYACHANDRA REDDY,
7. M.VIJAYARAGHAVULU,
8. T.NAGARAJU,
9. A.MUNIVELU,
10. P.CHANDRAMOULI,
11. M.VENKATESAN,
12. P.NATARAJAN,
13. D.CHINNA RANGAIAH,
14. Ch.VENKATARAMANAIAH,
15. G.Thulasisingam,
16. M.NAGARAJA,
17. SHAIK KHADER BASHA,
18. M.VADIVELU,
19. H.VICTOR PAGE,
20. A.S.JAYARAMAN,
21. K.DESAPPA,
22. K.BRAHMAIAH,
23. A.VENKATRAMA NAIDU.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.P.NAVEEN RAO

COUNSEL FOR THE RESPONDENTS: Mr.K.SIVA REDDY, Addl.CGSC for
R-1 to R-3.

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Mr.S.Ramakrishna Rao for R-4
to R-23.

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CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.P.Naveen Rao, learned counsel for the applicants, Mr.K.Siva Reddy, learned standing counsel for the official respondents and Mr.S.Ramakrishna Rao, learned counsel for the private respondents.

2. There are 3 applicants in this OA. Their service particulars are indicated in para 4 at page 2 of the OA. They were engaged as Casual Labourers during the years 1977 and 1980 and appointed as Khalasis in 1978, 1981 and 1983 respectively. They were promoted to the semi-skilled in 1987, 1988 and 1989. They came to the workshops unit against 10% quota in 1984, 1986 and 1987. Thereafter they were transferred on request to C.R.S. in Train Lighting Wing, Tirupathi in 1985, 1986 and 1987. They were appointed in Skilled Grade-III on 13.9.89, 30.3.91 and 30.3.91 respectively. At the time of filing this OA, they were in the Skilled Grade.II promoted to that grade from 12.11.92, 1.3.93 and 1.3.93 respectively. Their main grievance is that fixation of provisional seniority as finalised by the memo NO.TR/P.612/Elec/Artisan/TL/Vol.II, dated 9.5.97 (Annexure XIII at page 48 to the OA) stating that the seniority has been fixed as per this Tribunal's order in OA 873/92 and 1294/96 and rejecting their claim for showing them above the private respondents in this OA, is not

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correct. Because of issue of the impugned seniority list dated 9.5.97, the applicants apprehend that they will not be continued in the Skilled Gr.II.

3. This OA is filed to set-aside the proceedings No.TR/P/612/Elec/Art/TL/Vol.II, dated 9.5.97 (Annexure XIII at Page 48 to the OA) of R-2 with a direction to the respondents to protect the seniority of the applicants and continue them in the Skilled Grade-II with all consequential benefits.

4. Both the official and the private respondents have filed reply^{ies} and a rejoinder has also been filed.

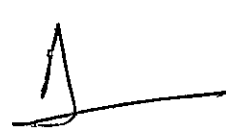
5. The main contention of the applicants in this OA is that they are senior to the applicants in OA 873/92 having been promoted to the Skilled Grade.III on 13.9.89, 30.3.91 and 30.3.90 respectively. The direction in OA 873/92 has no bearing in fixing their seniority. They should be placed in the seniority list above all the applicants who are promotees and all the respondents who were direct recruits in OA 873/92 thereby protecting their seniority and also continue them in the Skilled Grade.II without reversion. The respondents in their reply submit that the revision of seniority of the applicants was necessitated because of the directions in OA 873/92 and as the applicants in that OA were deemed to have been eligible for promotion to the post of Skilled Grade.III with effect from 27.5.88 they were shown senior to the applicants herein in accordance with the directions given in that OA of the promotees interpolating the seniority/with the 43 direct recruits who

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were appointed in response to the notification dated 26.4.86. Hence the respondents submit that the applicants herein cannot be given the seniority above the private respondents herein and if that is given in view of the request of the applicants, then it will be treated as contempt of Tribunal's order in OA 873/92. The private respondents in their reply also submit that the applicants having been promoted later than 27.5.88 cannot claim seniority above the private respondents. Some more details also have been included in the reply but that is not necessary in our opinion to pass any order in this OA.


6. A rejoinder has been filed. The applicants in that rejoinder submit that they were promoted to the Skilled Grade earlier to the private respondents who were promoted later than them. The applicants submit in the rejoinder that merely stating that they were promoted to the Skilled Grade after 27.5.88 is no reason to bring down their seniority. They add that it was lapse of the official respondents not to fill up the vacancies in the Skilled Gr.III available in 1988 when the eligible persons were available for promotion to Skilled Gr.III. If this being the position, the respondents ought to have reviewed all promotions made after 27.5.88 and ought to have granted promotions in accordance with the seniority and eligibility to the vacancies available ^{or earlier to} on 27.5.88. If such review ^d has been done, then the applicants could not have been shown junior to the private respondents. They also add that the Tribunal in the judgement in OA 873/92 had observed that the applicants in OA 873/92 were eligible in all respects for promotion to the Skilled Gr.III and hence



they cannot be shown below the private respondents i.e, direct recruits in OA 873/92. Hence the seniority between the 23 promotees as indicated in the list dated 7.5.91 and 43 direct recruits appointed as per the notification dated 26.4.86 needs to be fixed and the method of fixation of interse seniority for 23 promotees as per the list dated 7.5.91 and the 43 direct recruits appointed in response to the notification dated 26.4.1986 was indicated in the direction in OA 873/92. That direction in no way provides for bringing down the seniority of the applicants herein below the private respondents treating the seniority of the 23 promotees and 43 direct recruits as senior to the applicants herein.

7. The main point for consideration is the import of the judgement in OA 873/92. The applicants in OA 873/92 numbering 23 as per the list dated 7.5.91 pleaded that there were vacancies against which they ^{could} ~~can~~ be promoted before posting 43 direct recruits who were appointed in response to the notification dated 26.4.86. The 43 direct recruits were trained for posting in the Semi Skilled Gr.III in the Train Lighting Wing from 17.6.88 to 26.7.89. Hence the applicants in that OA pleaded that they should be shown as senior to the 43 direct recruits appointed in pursuance of the notification dated 26.4.86.

8. A further study of the judgement in OA 873/92 clearly indicates that it only resolves the dispute of seniority between the 23 promotees as per the list dated 7.5.91 and 43 direct recruits appointed in response to the notification dated 26.4.86. It does not state that the



others who were senior to the promotees to be brought down below 23 promotees and 43 direct recruits in the seniority list when prepared in accordance with the direction given in OA 873/92. It is also seen that to meet adequately the law of equity, a direction was given interpolating the seniority as given in that order. The direction given in that OA reads as below:-

"In the result, the following direction is given to fix the inter-se-seniority of 23 promotees as per the list dated 7.5.91 and the 43 direct recruitees appointed in response to the notification dated 26.4.1986.

i) The first 21 direct recruitees as per panel position/merit list, appointed in response to the notification dated 26.4.86 should be placed in the first leg of the inter-se-seniority list.

ii) The first leg will be followed by the first 21 promotees as per their inter-se seniority as indicated in the letter of R3 dated 7.5.91 as second leg in the inter-se-seniority list.

iii) The third leg of the inter-se-seniority list will consist of the next

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21 direct recruitees appointed in response to the notification dated 26.4.86.

iv) The remaining two promotees in the letter of R3 dated 7.5.91 will be placed below this third leg in the inter-se-seniority list.

v) The remaining one direct recruit appointed in response to the notification dated 26.4.86 will be placed below these two promotees in the inter-se-seniority list."

9. From the above reading of the direction given, two things have to be noted. They are:-

i) The judgement in OA 873/92 does not indicate the seniority position of those who were promoted to Skilled Grade-III earlier to 23 promotees as per the list dated 7.5.91 and 43 direct recruits appointed in response to the notification dated 26.4.86; and

(ii) The direction does not prohibit any promotees promoted earlier to the 23 promotees as per the list dated 7.5.91 to be placed above 23 promotees as per the list dated 7.5.91.

10. It is clear from the OA that the applicants were promoted to the Skilled Gr.III on 13.9.89, 30.3.91 and

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30.3.91 respectively and the applicants in OA 873/92 who were promotees were promoted to Skilled Gr.III later i.e, 7.5.91. It is also clear from the discussion in OA 873/92 that 23 promotees were eligible to be considered for promotion before the direct recruits who were appointed in response to the notification dated 26.4.86. It is also seen from the judgement that the excess quota of promotion was given to the direct recruits even though the eligible candidates were available for promotion as on 27.5.88. Hence to adhere to the law of equity, the method of fixation of seniority between the 23 promotees who were eligible for promotion as on 27.5.88 and in view of the fact that the direct recruits were given excess quota, that direction was given to interpolate the seniority as indicated above.

11. In that view, there is no prohibition for the respondents to fix the seniority of the promotees promoted earlier to 23 promotees as per the list dated 7.5.91 to be placed above all the applicants and private respondents in OA 873/92.

12. It is stated that the three applicants herein were promoted to Skilled Gr.III on 13.9.89, 30.3.92 and 30.3.91 respectively earlier to the 23 promotees as per the list dated 7.5.91. That would mean that the three applicants herein could have been promoted on or earlier to 27.5.88 and after promoting them only the list of 23 promotees in the list of 7.5.91 will come up for consideration for promotion to Skilled Grade-III on 27.5.88. Hence we see no reason to bring down the seniority of the 3 applicants herein below that of promotees and direct recruits whose inter-se-seniority was




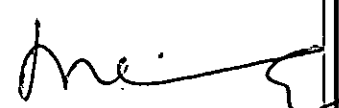
decided in OA 873/92. Hence it has to be held that the final seniority list dated 9.5.97 requires modification to the effect that the applicants herein should be placed above that of 23 promotees and 43 direct recruits. That would mean that these three applicants will come above the first leg as given in para 24(i) of the direction given in OA 873/92.

13. In the result, following direction is given:-

The applicants herein are entitled for placement in the seniority list of Skilled Gr.III above 21 direct recruits who are to be placed in the first leg as per para 24(i) of the judgement in OA 873/92. The consequential benefits on that basis, if any, arise should be extended to the applicants herein.

14. With the above directions, the OA is disposed of.
No order as to costs.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

16499
DATED : 16th APRIL, 1999

vsn

COPY TO:-

1. HDMJ
2. HRP M(A)
3. HBSJ M(J)
4. B.R.(A)
5. SPARE

6. Advocate

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

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

THE HON'BLE MR. B.S. JAI PARAMESWAR :
MEMBER (J)

DATED: 16-4-88

ORDER / JUDGEMENT

MA./R.A./C.P.No.

IN

C.A. No. 647/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH **HYDERABAD BENCH**

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

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