

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 743/97

Date of Order: 17.9.97

BETWEEN:

V.Gurunath

.. Applicant.

AND

1. Union of India, rep. by
General Manager,
S.C.Rly., Rail Nilayam,
Secunderabad-500 071.
2. Chief Personnel Officer,
S.C.Rly., Rail Nilayam,
Secunderabad - 500 071.
3. Controller of Stores,
S.C.Rly., Rail Nilayam,
Secunderabad - 500 071.
4. Railway Board,
Reptd. by its Secretary (Estt.),
Ministry of Railways,
Rail Bhavan, New Delhi - 110 001.

.. Respondents.

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Counsel for the Applicant

.. Mr.G.Ramachandra Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

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

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

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J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Heard Mr.G.Ramachandra Rao, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents.

2. The applicant in this OA is an officer holding substantial status in Group-B service in Printing and Stationary Department, South Central Railway.. He was promoted to senior scale on adhoc ^{as} basis/Superintendent (Printing and Stationary) in the year 1991 against a solitary sanctioned post of Superintendent (Printing and Stationary), now designated as Manager (Printing and Stationary) S.C.Railway. He has since been continued on adhoc basis in senior scale with the approval of the Railway Board from time to time. Now it is stated the Railway Board have posted a regularly recruited Group-A officer to the post of Manager (Printing and Stationary) S.C.Railway and the applicant has been issued with O.O. dated 12.6.97 reverting him to his substantial post of Assistant Manager (Printing and Stationary) S.C.Railway. The applicant is challenging the said order in this O.A.

3. The main contention of the applicant in this O.A. is that there are instances earlier that if there is congestion in the cadre of Superintendent (Printing and Stationary) involving reversion to holder of that post then that ad-hoc Superintendent who is in the senior scale is accommodated temporarily as District Controller of the Stores in senior scale in the Stores cadre. He has quoted the cases of Sri R.N.Roychoudhary and Sri V.Neelagandan to substantiate his statement. Since he is working as Manager (Printing and Stationary) for over six years he should be considered for posting in the stores cadre in the senior scale temporarily till such time he is able to get a berth in the Printing and Stationary cadre in the

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senior scale. The applicant further contends that the impugned order reverting him as Assistant Manager (Printing and Stationary) been issued on the basis of has / incorrect reading of the judgement of the Calcutta Bench of this Tribunal in OA.240/04 dated 12.6.97. He further contends that his case was favourably recommended by the zonal railway for accommodating him in the senior scale on adhoc basis temporarily in the stores cadre, which should have been accepted by Railway Board and informed to the S.C.Railway for implementation.

4. In view of the submission of the applicant that the railway has requested the Railway Board to consider him for posting him in stores cadre temporarily, We have asked the Railway Board (R-4 herein) also to file a reply in this connection. R-4 also filed a reply dated 24.7.97. In that reply R-4 has ^{narrated} / the recruitment rule for filling up the post of Superintendent in the senior scale which is in Group-A service. The recruitment rule provides for filling up the post by promotion to the extent of 40% failing which by direct recruitment and the rest of the 60% by direct recruitment failing which by transfer on deputation. It is further stated that the applicant herein was placed on adhoc panel on 8.7.91 by the General Manager, S.C.Railway for promotion to senior scale post in Printing and Stationary on South Central Railway. He was promoted to officiate as Superintendent (Printing and Stationary) on 11.7.91. It was made clear in the promotion order that the arrangement ^{was} ~~is~~ purely on adhoc basis and ^{would} ~~will~~ not confer on the applicant any claim for appointment on regular basis and that he ^{would} ~~will~~ be replaced as soon as a regular DPC panel ~~is~~ ^{was} received from the Ministry of Railways. His continuation in the senior scale post in Printing and Stationary ^{unit} ~~was~~ allowed by issuing adhoc promotion order every now and then. When a regular appointment was finalised Sri Neela Gandan was posted to S.C.Railway as Manager (Printing and Stationary) ^{terminated} / the adhoc arrangement

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appointee. It is further stated in the Railway Board's reply that the senior scale in the stores department and Printing and Stationary are two separate and distinct cadres governed by different sets of rules and the channel of promotions in the two departments are distinct. Promotion of a Group-A officer belonging to Printing and Stationary department to senior scale post in the stores department will give rise to legitimate grievances on the part of Group-B/Junior scale officers of Stores Department as these posts are in the channel of promotion to Stores Officer. Accordingly the proposal of S.C.Railway for continuation on adhoc basis of the applicant on senior scale was not agreed to by the Ministry's letter dated 7.5.97 (A-7 to the reply of R-4). The Railway Board further submits that action for manning the posts of Superintendent (Printing and Stationary) on regular basis was taken by placing indent on UPSC on 11.8.94 for direct recruitment and by sending DPC proposal on 14.11.95 for promotion. Hence it is incorrect to state that the proposal was initiated only after the order of the Calcutta Bench of this Tribunal in the above referred OA.

5. A rejoinder has been filed to the reply of R-4. The points brought out in this rejoinder does not indicate with proper documents that a senior scale officer of the Printing and Stationary seniority unit working temporarily on adhoc basis can be posted as a senior scale officer in the Stores Department, which is another seniority unit. It appears from the rejoinder that the applicant is of the opinion that there are posts even in Printing and Stationary Department probably elsewhere in senior scale to continue him in that post.

6. The first point for consideration is whether an officer of one seniority unit can be posted to another seniority unit without causing any detriment to the officers of that unit in which he is posted. The officers belonging to two different units cannot

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aspire to either interchange their places or posted in the other seniority unit even on temporary basis as that arrangement will cause immense harm to the cadre officers. Superintendent of the Printing and Stationary unit if posted in the grade of a senior scale officers in the stores department which is a different seniority unit then interest of stores cadre officers will definitely be affected especially those who are aspiring promotion to the senior scale. Hence the Railway Board's submission that the applicant cannot be posted in the senior scale in stores cadre has to be taken as a proper appreciation of the situation. Even if the railway has recommended his case to be posted to the senior scale temporarily on adhoc basis that recommendation will be dehorse the rules. It is not understood as to why the Railway made such a recommendation. However the zonal railway now had retread their steps and agreed with the Railway Board. The Railway Board had correctly rejected that recommendation. The applicant submits that there were cases in the past where the Superintendent (Printing and Stationary) in senior scale were posted in senior scale in Stores Department. He has quoted the names of those officials also. Just because a mistake was committed it does not mean that such a mistake must be perpetuated later also. (1996) 32 ATC 172. The department has to follow the proper rules. Merely because some posting as submitted by the applicant had been made earlier it does not give any vested right to the applicant to follow that practice in his case also. Hence this contention is rejected.

7. As regards the contention that the order of the Calcutta Bench was interpreted wrongly, we do not want to express any opinion. The rules are clear. Officers belonging to different seniority unit can aspire for any promotion in the seniority in which they are born. Reversion of an ad-hoc officer by a duly selected officer is in accordance with the rules. Reversion under such circumstances

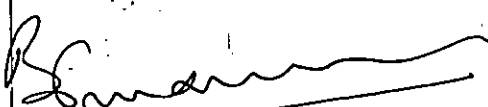
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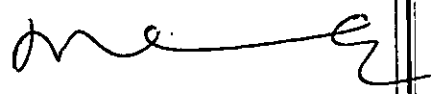
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cannot be challenged as held by Apex Court. It was also held by Apex Court that reversion of ad-hoc promotees although continuing for a long period is not illegal (1993 (24) ATC 622).

8. The applicant submits in his rejoinder that there are posts in senior scale in Printing and Stationary unit elsewhere in the Railway Organisation. If the applicant is eligible to be considered for those posts the respondents are at liberty to consider him and post him in the proper seniority unit in accordance with the rules. The dismissal of this application will not stand in the way of the applicant to get that benefit.

9. In the result, the OA is dismissed as having no merit subject to the observation as made in para-8 above. No costs.



(B.S. JAI PARAMESHWAR)
Member (Judl.)


(R. RANGARAJAN)
Member (Admn.)

17.9.97

Dated : 17th September, 1997

(Dictated in Open Court)


D.R. (J)

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Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam,
Secunderabad-071
2. The Chief Personnel Officer, South Central Railway Rail Nilayam.
Secunderabad-071.
3. The Controller of Stores, South Central Railway, Rail Nilayam,
Secunderabad-500071.
4. The Secretary (Esst) Railway Board, Ministry of Railways, Railways
Rail Bhavan, New Delhi-01.
5. One Copy to Mr. G. Ramachandra Rao, Advocate, CAT. HYD.
6. One Copy to The D.R. (A).
7. One Duplicate Copy.
8. *one copy to Mr. N.R. Devaraj Sircar*
Upr.

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23/10/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 17-9-97

ORDER/JUDGMENT

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

in

C.A.NO.

743/97.

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

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II Court

