

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 761/97

Date of Order : 11.12.98

BETWEEN :

R.Mahaboob Basha

.. Applicant.

AND

1. The Chief Personnel Officer,
S.C.Railway, Rail Nilayam,
Secunderabad.
2. The Workshop Personnel Officer,
Carriage Repair Shop,
S.C.Railway,
Tirupathi.

.. Respondents.

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Counsel for the Applicant

.. Mr.K.Sudhakara Reddy

Counsel for the Respondents

.. Mr.V.Rajeswara Rao

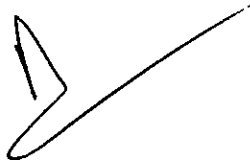
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CORAM :

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

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

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X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr.K.Sudhakara Reddy, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. No reply is filed by the respondents. However, the learned counsel for the respondents submitted on the basis of the details available with him.

3. The applicant in this OA was initially appointed as junior clerk in the organisation of R-2 in personnel branch. Presently he is working ^{as Senior Clerk} under the same respondents in the same branch. The applicant has applied for the change of category as Ticket Collector in Guntakal division in the year 1989. That was forwarded to the Senior DPO, Guntakal by letter dated 10.7.89 (A-1). The applicant was replied by letter No.TR/P 676/DI/TRT/Vol.II, dated 8.8.89 (A-2). It is seen from the said letter that there ~~were~~ no vacancies in the cadre of Ticket Collectors ^{at that time} in Guntakal Division; hence the papers have been filed in that office. Subsequently the applicant submitted another representation for ~~the~~ change of category as Ticket Collector by his representation dated 21.6.93 (A-3) and he followed it up by another representation addressed to R-1 by his representation dated 9.2.94 (A-4).

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In that representation he had contended that one Sri Sk. Subhani Skilled Painter-II, Paint Shop was given change of category as Ticket Collector in Guntakal Division and as he had applied earlier to Sri Subhani non-consideration of his application is irregular. That was forwarded by R-2 by his letter dated 22.2.94 (A-5D). R-2 once again addressed a letter dated 22.2.94 (A-6) stating that relief of Sri Sk. Subhani will be considered after he receives the reply as the transfer of Subhani may have larger implications in this connection. But Subhani was transferred by the order dated 6.6.94 (A-11).

4. A notification was issued bearing No.G/P.676/II/TCs/Change/Vol.III, dated 25.2.97 (A-7), wherein some names have been given for transfer as Ticket Collectors against 16-2/3% quota. The applicant submits that he had applied for the same. But the respondents contend that he had not put in an application. He had submitted another representation on the above lines addressed to R-1 dated 2.4.94 (A-8).

5. Aggrieved by non-consideration of his case for transfer as Ticket Collector in Guntakal Division the applicant has filed this OA praying for a direction to the respondents to consider his case for change of category from Personnel Department to Commercial Department as Ticket Collector in the scale of pay of Rs.950-1500 against 16-2/3% quota from non-technical categories w.e.f. 6.6.94 with all consequential benefits such as seniority, arrears of pay,

etc.

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6. The main contention of the applicant in this OA is that his case was rejected for inter cadre transfer even though others and those applied for inter departmental transfer later than him were given the transfer. Hence he contends that his case was treated discriminately.

7. The letter dated 8.8.89 (A-2) only states that there are no vacancies in the cadre of Ticket Collectors in the division and hence the papers had been filed. If the papers had been filed the applicant could have been easily told to apply as and when fresh notification is issued in future against 16-2/3% quota for inter cadre transfer as Ticket Collector. The letter dated 8.8.89 does not say so. It merely states that it has been filed. The applicant submits that he had presumed that his name for inter cadre transfer had been registered and waited for his turn.

8. The second contention of the applicant is that one Sri Sk. Subhani who applied later than him for the inter cadre transfer as Ticket Collector was posted as Ticket Collector by the order dated 6.6.94 whereas the applicant who had applied earlier was not given orders as Ticket Collector. Hence it is a case of discrimination.

9. The learned counsel for the respondents submitted that the case of the applicant was not considered. He has not also applied when the notification was issued in 1997 and hence his case was not considered and there is no

discrimination.

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10. The very fact that the case of the applicant was rejected, is not intimated to him it should mean that the applicant's case was kept in waiting for consideration at the appropriate time. The applicant could have easily been told that he should apply as and when the notification is issued in future for change of category as Ticket Collector in the respondents letter dated 8.8.89. But unfortunately no such indication has been given. His further representation against the transfer of Sk. Subhani as Ticket Collector was not replied suitably. Even though R-2 addressed a letter dated 25.2.94 to the headquarters office for retaining Sri Subhani in the work shop no reply appears to have been given but Sri Sk. Subhani was transferred by order dt. 6.6.94. Normally, when a change of category is asked for the name should be registered in a register and on the basis of the date of registration the cases of the employees should be considered. In case the cadre change is not agreed to the employee should be replied suitably on those lines. In the present case the applicant was not informed in a suitable manner to any of his representations. Hence it has to be held that the case of the applicant was not considered objectively by the administration earlier and hence his case has to be considered afresh once again.

11. The applicant is now working as Senior Clerk. Hence posting him as a Ticket Collector will mean reversion. But the learned counsel for the applicant submits that the

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applicant has no objection to post him as Ticket Collector even though he is now working as Senior Clerk.

12. It may be possible that there may not be any vacancy against 16-2/3% quota for inter departmental transfer as Ticket Collector. Hence transferring the applicant without the availability of vacancy in that quota may not be appropriate. Hence his name should be considered when the next first vacancy arises against 16-2/3% quota without asking him to apply for the same and in case he is found suitable for inter cadre transfer as Ticket Collector then he should be posted as Ticket Collector in Guntakal Division. As regards his seniority in the category of Ticket Collector it is not correct to pass any orders at this juncture as he has not been posted as Ticket Collector. The applicant may if so advised submit a representation for fixing his seniority in the category of Ticket Collector in the way in which he wants to be given with the details for his asking ^{so} when he is posted as Ticket Collector. That representation at that time should be disposed of by the respondents in accordance with the law.

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

The case of the applicant should be considered for posting him as Ticket Collector in the first vacancy that arises against 16-2/3% quota in the immediate future. If

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he is found fit for that transfer he should be issued with orders thereafter against that vacancy. The applicant is at liberty to submit a detailed representation for fixing his seniority in the changed cadre in accordance with the law after his posting as Ticket Collector in pursuance of the above direction. The respondents if such a representation is received should dispose of the same in accordance with the law.

14. The OA is ordered accordingly. No costs.



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

11.12.98



(R. RANGARAJAN)
Member (Admn.)

Dated : 11th December, 1998

(Dictated in Open Court)

Prudhvi
S.E. |

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copy to: -

1) D.R. (A)

2) B. Pare

11 COURT

TYPED 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: 11/12/99

ORDER/JUDGMENT

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

in

DA.NO.

761/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED.

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

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