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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD  
\*\*\*

C.A. 777/97.

Dt. of Decision : 21-07-97.

B.Koteswara Rao

... Applicant.

Vs

1. The Union of India rep. by it's General Manager, SC Rly, Rail Nilayam, Sec'bad.
2. The General Manager, Railway Electrification, Allahabad.
3. The Chief Project Manager (P), Railway Electrification, SC Rly, ~~SC~~ Vijayawada.
4. The Divl.Rly. Manager(P), SC Rly, BZA/Vijayawada.

... Respondents.

Counsel for the applicant : Mr.G.V.Sekhar Babu

Counsel for the respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:

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

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

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

Heard Mr. G. V. Sekhar Babu, learned counsel for the applicant and Mr. V. Bhimanna, learned counsel for the respondents.

2. The applicant in this OA is working as Casual Temporary ~~Driver~~ Driver in Railway Electrification, CPM Office, SC Railway, Vijayawada. He was engaged as Casual ~~Driver~~ Driver on 8-8-93 in R-3's office. He was granted temporary status on 3-8-84 and consequently he has been ~~exempted~~ brought on the scale of pay of Rs. 950-1500/- as temporary status casual labour. The applicant now submits that he has put in about 14 years of service as Casual <sup>Driver</sup> Labour and has also brought ~~on~~ temporary status and hence he is deemed to have been regularised to that post. By the impugned order No. E. 252/KSRE/3080/Screening/Vol. II dated 24-02-97 (Annexure-VIII) he was ~~exempted~~ confirmed as Regular Group-D staff as Khalasi in the scale of pay of Rs. 750-940/- in TrD Bizawada Division. His name stands at Sl. No. 88 of the said order.

3. Aggrieved by the above, the applicant submits that he should not have been reverted as a Group-D staff when he had put in more than 14 years of service as Casual temporary status Driver and he should have been absorbed as Driver in the scale of pay of Rs. 950-1500/-. It is stated that the applicant has submitted <sup>his</sup> unwillingness to take charge as Khalasi in TrD, Vijayawada Division. That unwillingness is not enclosed to this OA. It is stated that he is still continuing as Driver under R-3 in the scale of pay of Rs. 950-1500/-.

4. This OA is filed to set aside the impugned order No. E. 252/KSRE/3080/Screening/Vol. II dated 24-02-97 (Annexure-VIII) whereby he was posted as regular Khalasi in the scale of pay of Rs. 750-940/- by holding the same as arbitrary, malafide, illegal, unconstitutional and for a consequential direction to treat him as having been regularised permanently in Group-C posts of Driver in the scale of pay of Rs. 1200-1800/- w.e.f., 1985.

5. The applicant is no doubt <sup>a</sup> temporary status casual Driver in the scale of pay of Rs.950-1500/- <sup>av.</sup> He is eligible for consideration for absorption as Driver in the scale of pay of Rs.950-1500/- against the regular posts to be filled by direct recruitment. If there are no posts for direct recruitment, the applicant cannot claim for posting him against those posts which are earmarked for promotion from the lower grade of the feeder category. The applicant has not brought out in his OA that there are posts earmarked for direct recruitment and he should have been considered against those posts. The applicant submits that the post ~~in~~ in which he is working is <sup>av.</sup> earmarked post for direct recruitment but that assertion will not help unless he produces tangible proof to aver so. The applicant also relies on the order No.E.252/ESRE/3080/1/Vol.III dated 23-03-94 (Annexure-II) and order No.H/P.563/VIII/Vol.III/Drivers dated 31-1-95 (Annexure-V) whereby some of the temporary status <sup>Artisan Staff</sup> casual labourers were absorbed in the regular Artisan category. By relying on those orders the applicant submits that he should also be considered for absorption against the Artisan category as Driver in the scale of pay of Rs.950-1500/. But the orders referred to above do not indicate that they were absorbed <sup>against those posts</sup> which are not earmarked for direct recruitment. The applicant also <sup>has</sup> not produced any proof to that effect and hence those orders cannot be relied upon by the applicant to ask for the present relief. But if any Driver junior to him in the casual <sup>has been</sup> temporary status category is taken as a regular Driver as per the recruitment rules then the applicant may have a case but he has not produced any such case for our consideration. As no junior <sup>been</sup> has been shown as having <sup>a</sup> absorbed as regular Driver over-looking the seniority of the applicant, the question of any violation of any constitutional provision does not arise.

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6. The applicant also submits that an interim order has been given in other OAs by the other Bench of this Tribunal to continue ~~applicant~~ <sup>similar</sup> ~~status~~ <sup>as</sup> ~~him~~ <sup>as</sup> temporary status casual Driver and similar interim order can be given in this case also. But we do not consider such interim order is necessary in the present case. Further no interim order is binding on this Bench unless such an order is made final. Even such final order can be reviewed by this Bench if there is need for review. In view of that we do not feel any interim order is essential in this case. Considering the above facts and circumstances of the case we are of the opinion that the applicant should not be forced to take up the job of regular Khalasi in the scale of pay of Rs. 750-940/- by the impugned order dated 24-02-97 if he is unwilling and should be allowed to continue as casual labour temporary status Driver in the present <sup>he</sup> <sup>he</sup> status. But ~~it~~ stands risk of being retrenched if there is no work for the post of Driver in the organisation in which he is working. <sup>for his Upgradation as Driver Group C</sup> His case should be ~~examined~~ considered in his turn against the direct recruitment quota when it arises if he applies for the same <sup>in accordance with rules</sup>.

7. With the above direction the OA is disposed of at the admission stage itself. No costs.

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

21.7.97

*R. RANGARAJAN*  
(R. RANGARAJAN)  
MEMBER(ADMN.)

Dated : The 21st July, 97.  
(Dictated in the OpenCourt)

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*Amrit  
D.R.(J)*

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**Copy to:**

1. The General Manager, South Central Railway, Railnilayam, Secunderabad.
2. The General Manager, Railway Electrification, Allahabad.
3. The Chief Project Manager, (P), Railway Electrification, South Central Railway, Vijayawada.
4. The Divl. Railway Manager, (P), South Central Railway, BZA/Vijayawada.
5. One copy to Mr. G. V. Sekhar Babu, Advocate, CAT, Hyderabad.
6. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
7. One copy to D.R(A), CAT, Hyderabad.
8. One duplicate copy.

YLKR

~~26/10/97~~  
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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

21/7/97

ORDER/JUDGEMENT

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

in

O.A. NO. 777/97

Admitted and interim directions  
Issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLKR

II Court.

केंद्रीय प्रशासनिक धर्मिकरण  
Central Administrative Tribunal

