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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.805/97

DATE OF ORDER : 03-03-1998.

Between :-

D.Madhava Murthy

... Applicant
And

1. Sr.Divisional Personnel Officer,
S.C.Railway, Guntakal Division,
Guntakal, Anantapur District.
2. Sr.Divisional Accounts Officer,
S.C.Railway, Guntakal Division,
Guntakal, Anantapur District.
3. General Manager,
S.C.Railway, Rail Nilayam,
Sec'bad.
4. Financial Advisor & Chief
Accounts Officer, S.C.Railway,
Rail Nilayam, Sec'bad.
5. Chairman, Railway Board,
Rail Bhavan, New Delhi.

... Respondents

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Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri V.Bhimanna, SC for Rlys

CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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None for the applicant. Sri W.Bhimanna, standing counsel for the respondents. As similar OAs ~~are~~ already been disposed of, we do not think it necessary to delay the issue of judgement in this OA. Hence the OA is disposed of under Rule-15(1) of the CAT(Procedure) Rules, 1985.

2. The applicant was certified physically fit in Medical Group A-2 for SM and signaller Trainee on 15-3-49 ^{and} ~~as~~ qualified to work as Station Master Trainee with effect from 16-1-1950 in Madras and transferred to Rayapuram during November, 1955 as RSM.

3. South Central Railway was formed on 2-10-1966. The Guntakal Division was continued in Southern Railways and subsequently merged in South Central Railways in the year 1976. The applicant ~~was~~ while working as RASM at Bellary in scale Rs.130-240, which was then under the Guntakal Division was handed over to Hubli Division with effect from 2-10-66. While he was working in Hubli Division, he was promoted to the scale of Rs.205-280 with effect from 2-10-1969. On the implementation of the 3rd pay Commission scales, he was brought to the revised scale of pay of Rs.425-640. He was transferred to Vijayawada Division w.e.f. 1-4-76 consequent on transfer of GTL-DNG section to Bezawada Division. While working in the scale of pay of Rs.425-640, the applicant was transferred to Guntakal Division on 16-1-81 on handing over NDL-MKR section to Guntakal Division. After joining Guntakal Division, he was promoted to

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scale of pay of Rs.455-700 w.e.f.12-6-81. The applicant finally retired from service in that scale on superannuation on 30-6-81. The applicant submitted representation for fixing up his pay on par with his junior one Mr.Raman Kutti, who was also working in Guntakal Division along with him when he was working in Guntakal Division and also to give him promotion on par with said Mr.Raman Kutti. That representation was disposed of by the impugned order No.G/P.524/1/Optg/Pilot. dt.4-10-96 (Annexure-IV to the OA). It is stated in the impugned order that the said Mr.Raman Kutti was appointed earlier than the applicant i.e. on 10-3-1947 and Mr. Raman Kutti was drawing more pay than the applicant in the scale of pay of Rs.130-225 as on 1-7-55 and Sri Raman Kutti was promoted i.e. to the grade of Rs.205-280 on 7-2-69/earlier to the applicant and the said scale became Rs.425-640 w.e.f.1.1.73. On that basis the applicant's representation dt.25-3-96 was rejected. Subsequently the applicant also filed another representation to the Accounts Officer for proforma fixation of pay and consequent revision of his pension with effect from 1-7-81, which was also turned down by the Accounts Officer by the impugned order No.A/FE/GTL/FIXATION dt.11-10-96 (Annexure-III to the OA). The applicant further pursued the above said the case by representing for/fixation in the Pension Adalath conducted in 1986. He was informed that his case has already been decided and decision was conveyed to him by letter dt.4-10-96 and hence his case was rejected.

4. Aggrieved by the above, the applicant has filed this O.A. for setting aside the impugned orders No. G/P.542/I/Optg./Pilot dt.4-10-96 of Sr.Divisional Personnel Officer, SC Railway, Guntakal

No.A/FE/GTL/Fixation dt.11-10-96 of Sr.Divisional Accounts Officer, SC Rlys, Guntakal, No.GP.524/I/Optg/Pilot, dt.11-12-96 of Sr. Divisional Personnel Officer, SC Rlys, Guntakal and No.P(T)500/Co-or/Rep/DOP/96/OMM dt.17-12-96 of the General Manager, SC Rlys, Sec*bed and declare them as illegal, arbitrary and unconstitutional violation of Article 14 and 16 of the constitution of India and direct the respondents to revise the seniority and promotion in Grade Rs.452-640 (RS) and Rs.455-700 (RS) on par with the junior in Guntakal Division seniority unit of Station Master (P.V.Raman Kutty) and refix the pay accordingly duly revising the pension and pensionary benefits including arrears of pay from the date of promotion and pension from 1-7-81 etc... The applicant has filed this OA on 25-6-97. The applicant retired from service on 30-6-81 i.e. this O.A. was filed 16 years after his retirement. When he was working in Guntakal Division Sri Raman Kutti was also working in Guntakal Division. If the applicant was of the opinion that Sri Raman Kutti was junior to him, he should have represented his case for fixation of his seniority above Sri Raman Kutti and also to refix the pay on par with Sri Raman Kutti and also demanded promotion on par with Sri Raman Kutti. It is not known why the applicant kept quite right from 1981 i.e. the year of superannuation till the filing of this OA. That itself shows that the applicant ~~vigilance~~ to pursue his case while working or atleast immediately after he retired from service. The respondents could have rejected the applicant's case as time barred but for the reasons best known to them they have not done so but that will not be a reason for condoning the limitation in the

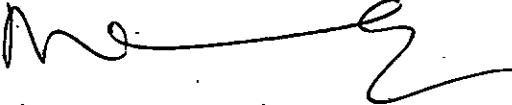
present case. The applicant failed to represent his case and the Law will not help an indolent employee after a lapse of very long time. Hence the application has to be rejected because of limitation. Similar OAs were filed in this Tribunal earlier for ~~similar~~ similar relief ~~issued~~ due to the Guntakal Division change from Southern Railways to South Central Railway and number of transfers were involved in those OAs. Those OAs were considered and the ~~in~~ ^{were} claim of the applicant ~~in~~ ^{of} those OAs rejected due to bar of limitation. The present relief is also more or less similar to those OAs. Hence this OA is also liable to be rejected because of limitation.

5. It is very categorically stated in the impugned order dt.4-10-96 and also in the reply to this OA that Sri Raman Kutti was appointed on 10-3-47 whereas the applicant was appointed initially on 9-3-49. Further in para-7 of the counter it is stated that the applicant is junior to Sri Raman Kutti. It is also further elaborated how the career progressed of Sri Raman Kutti and the applicant. It is very clearly stated in that para that the pay of the applicant was never more than the pay of Sri Raman Kutti. The applicant had not filed any ~~re~~ ^{re} counter contradicting the details given in the reply. Hence it has to be held that the applicant reconciles that Sri Raman Kutti is senior to him. Hence he had not filed any reply controverting the statements made by the respondents.

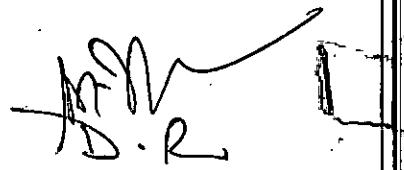
6. In view of the above explanation, the O.A. is liable to be dismissed not only on merits but in view of latches also. Accordingly it is dismissed. No order as to costs.


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

3/3/98


(R.RANGARAJAN)
Member (A)

Dated: 3rd March, 1998.
Dictated in Open Court.


D.R.

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Copy to:

Divisional

1. Senior/Personnel Officer,
South Central Railway, Guntakal Division,
Guntakal , Ananthapur District.
2. Senior Divisional Accounts Officer, South Central Railway,
Guntakal Division, Guntakal, Ananthapur District.
3. General Manager, South Central Railway,
Railnilayam, Secunderabad.
4. Financial Advisor & Chief Accounts Officer,
South Central Railway, Railnilayam, Secunderabad.
5. Chairman, Railway Board, Rail Bhavan, New Delhi.
6. One copy to Mr.P.Krishna Reddy, Advocate,CAT,Hyderabad.
7. One copy to Mr.V.Bhimanna, Addl.CGSC,CAT, Hyderabad.
8. One copy to D.R(A),CAT,Hyderabad.
9. One duplicate copy.

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COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

THE HON'BLE MR. BURANGARAJAN : M(A)

AND

THE HON'BLE MR. B.S. DHI PARAMESHWAR :
M(J)

DATED: 3/3/98

ORDER/JUDGMENT

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

in

D.A. NO. 805/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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