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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.848/97.

Dt. of Decision : 14-12-98.

R.Prakasham

..Applicant.

Vs

1. The General Manager,
SC Rly, Rail Nilayam,
Sec'bad.
2. The Divl. Rly. Manager (P)/BG,
SC Rly, Sec'bad.
3. Uppalaiah Ramaiah
4. C.Ramachander
5. B.Nageswar Rao

.. Respondents.

Counsel for the applicant : Mr.A.Satyenrayana

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

CCRAM:-

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

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

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ORDER

ORAL ORDER (PER HON.MR.B.S.JAI PARAMESHWAR:MEMBER(JUDL.))

None on either side. Notices have been personally served on the Respondents 3 to 5, they are called, absent. We are deciding this OA on the basis of the material available on record under Rule 15(1) of the CAT (Procedure) Rules, 1987.

2. The applicant herein was initially appointed as substitute Carriage Wagon Khalasi on 1-9-67 and was absorbed as Khalasi in the scale of Rs.196-232 (RS) vide panel dated 25-1-71 and letter dated 23-3-71. He is presently working as Carriage Fitter HS Gr-II in the scale of Rs.1200-1800/- (RSRP). The applicant submits that some of his juniors were given promotion as Carriage Fitter HS Gr-I overlooking his seniority and he has cited the names of Uppalaiah Ramaiah, C.Ramachander and B.Nageswara Rao etc. The applicant submits that he was appointed against the reserved SC category and he was senior to the persons above named.

3. He has filed this OA to call for the records relating to and connected with the S.R. and personal file of the applicant and seniority list of Carriage Fitter HS Gr-I & II and to declare the action of the official respondents herein in not promoting the applicant as Carriage Fitter HS Gr-I against SC roster point as illegal, arbitrary, improper and violative of principles of natural justice and for a consequential direction to the respondents to maintain seniority of the applicant from the date of his in the department at an appropriate place i.e., over and above the respondent No.3 to 5 and to promote him to the post of Carriage Fitter HS Gr-I with all consequential benefits.

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4. The respondents have in page-2 of the reply furnished the service particulars of the applicant and respondents No.3 to 5. They submit that the respondents 3 to 5 are seniors to the applicant, that the applicant was called for trade test along with the other eligible SC candidates, that the applicant failed to appear for the trade test on the pretext that he should be promoted as Carriage Fitter HS Gr-I in the restructured cadre without subjecting him to trade test, that the applicant was called for interview on 8-9-93, 3-6-94, 30-10-94, 15-3-96 and 16-1-97 and that the applicant did not appear for the Trade test.

5. They submit that the applicant was not within the percentage for promotion against the restructured post w.e.f., 1-3-93 and therefore he was not considered for promotion.

6. Even when his case came for consideration for promotion against SC quota to the cadre of HS Gr-I in September, 1993 he was called for interview. Then also the applicant did not appear for the interview on 8-9-93.

7. They submit that the private respondent No.3 was originally appointed as Carriage Wagon Khalasi on 14-4-71 at Kazipet, subsequently he was promoted as Wheel Attendant and posted at Kachiguda in the erstwhile combined division. The Sec'bad (Broad Guage) Division was bifurcated in-to two divisions that at that time options were called for from the officials working in the combined division, that R-3 on his option was transferred from Kachiguda to Ramagundam in Sec'bad division as Wheel Attendant therefore there was no loss of seniority on this account. Further the name of R-3 was appearing at Sl.No.1035 whereas the applicant was at Sl.No.1046 in the seniority list published during the year 1976.

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8. The R-4 and R-5 were likewise at Sl.No.966 and 993 respectively. Thus the applicant cannot claim seniority above R-3 to R-5, that the R-3 to R-5 were promoted as Carriage Fitter HS Gr-I w.e.f., 15-3-93 and 20-7-88 respectively as per their seniority position. The R-4 was promoted as Carriage Fitter HS Gr-I w.e.f., 20-7-88. He is senior to the applicant.

9. They submit that the letter dated 25-7-94 referred to in the OA related to the reply given to him on his earlier representations dated 9-6-94 and 12-7-94, which indicated that the applicant was junior to R-3 who came to BG . Sec'bad Division on option basis subsequent to bifurcation of the division. They further submit that passing the trade test is a precondition for promotion to the post of Carriage Fitter HS Gr-I. Thus they pray for dismissal of the OA.

10. They submit that by oversight his caste status was not indicated against in brackets, that the applicant submitted a representation dated 7-6-88 that he has been considered as a reserved community candidate right from the date of his appointment (i.e., 1-9-67), after obtaining sanction from the competent authority. Even after treating the applicant as a SC candidate none of the SC candidate who is junior to the applicant has been promoted to Carriage Fitter HS Gr-I w.e.f., 23-3-94 after passing the requisite trade test, except one N.Babu Rao was promoted as Carriage Fitter HS Gr-I w.e.f., 23-3-94 after passing the Trade Test. As the applicant failed to appear for the trade test, he was not considered for promotion. The promotion to Carriage Fitter HS Gr-I passing trade test is a condition precedent.

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11. The applicant claims seniority over the private respondents and also for consideration of his promotion to the cadre of CF HS Gr-I without subjecting him to a trade test.

12. The main contention of the applicant in this OA is that the private respondents No.3 to 5 had already been promoted as Carriage Fitter HS Gr-I and hence the applicant who is senior to them should have been promoted. His further contention is that he is an SC candidate right from the beginning of his joining ~~of~~ the service and hence he is eligible to be promoted when the restructuring of the cadre was ordered on 1-3-93. As he was not promoted against the restructured cadre to the post of Carriage Fitter HS Gr-I as on 1-3-93 considering his status as SC candidate the respondents should not ~~call~~ ^{have} him for further trade test on various dates. Hence he refused to attend as some injustice has been done to him even earlier.

13. The very fact that the private respondents No.4 and 5 are SC candidates and having entered the cadre of Carriage Fitter HS Gr-II on 1-1-94 shows that they are seniors to the applicant in the category of HS Gr-II and also their seniority is shown above the applicant when the seniority list of Khalasi was published in the year 1976.

14. The applicant cannot challenge the settled seniority position way back in the year 1976 now after a lapse of about 21 years.

15. The only point that has to be considered is whether he is senior to R-3. R-3 was taken as substitute khalasi in the year 14-4-71 whereas the applicant joined as substitute khalasi on 1-9-67. However it is seen from the para-7 of the reply that R-3 who was working in Sec'bad division before bifurcation as Wagon Khalasi was promoted

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as Wheel Attendant and posted at Kachiguda. R-3 having been promoted as Wheel Attendant earlier to the applicant and was senior to the applicant. R-3 came to Sec'bad division on bifurcation of Sec'bad (BG) and Hyderabad Division. He was senior to the applicant at the time of bifurcation. He came with that seniority to Sec'bad (BG) Division.

16. Hence it is to be held that the applicant was junior to R-3 even in the lower grade also.

17. The applicant has not filed any rejoinder to rebut the submissions made by the respondents in para-7 of the reply. It has to be held that the submissions made by the respondents is in order.

18. Further it is also stated that when the restructuring of the cadre came into existence on 1-3-93 the applicant was not within the zone of consideration for considering him for promotion to the post of CF HS Gr-I. If he was in the zone of consideration and his case was not considered he should have challenged the promotion list which was issued for the post of CF HS Gr-I in pursuance of the restructure of the cadre from 1-3-93.

19. It looks that the applicant had not made any case in that connection. Now saying that he was to be considered is a belated response and cannot be considered without any details. The respondents categorically stated that the restructuring in the cadre was done in accordance with the rules giving promotion to the reserved candidates also and as the applicant was not in the zone of consideration for promotion against the restructuring cadre, he was not promoted. It is also stated that the applicant was shown as SC candidate on scrutiny of the records w.e.f., 7-6-88. If so, it cannot be said that the applicant was not treated as SC earlier to the restructuring order dated 1-3-93 came into

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force. The applicant was considered as a SC candidate from the beginning w.e.f., 1-9-67 and as he was not in the zone of consideration for promotion against the restructured cadre he was not promoted.

20. Subsequently when he was issued with the call letters to appear for the trade test for promotion to the post of Gr-I on 8-9-93, 3-6-94, 30-10-94, 15-3-96 and 16-1-97 the applicant failed to respond on the pretext that his name should have been considered against the restructuring of the cadre as on 1-3-93. But that contention cannot be accepted in view of what is stated above. It is stated in para-10 of the reply that the applicant has not lost anything as his caste status was decided on 7-6-88. But that reservation was given to him right from the date of his joining. One of his junior viz., Babu Rao was promoted against SC quota w.e.f., 23-3-94. That had happened because the applicant failed to appear for the trade test when called for along with N.Babu Rao as he attended the same and found fit for promotion to HS Gr-I against SC quota.

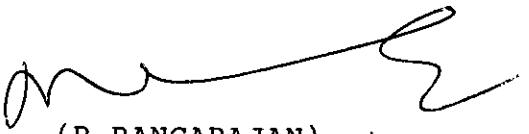
21. In view of the above analysis we find that the case of the applicant had been dealt with in accordance with law and there is no reason to give any relief on the basis of the contentions raised in this OA.

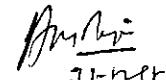
22. Hence, the OA is liable only to be dismissed and accordingly it is dismissed. No costs.


(B.S.JAI PARAMESHWAR)

14.12.98 MEMBER(JUDL.)
Dated : The 14th Dec. 1998.
(Dictated in the Open Court)

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(R.RANGARAJAN)
MEMBER(ADMN.)


J. J. NER

copy to : —

II COURT

1) W BSCP
2) D. R (A)
3) Spare

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: 12/12/98

ORDER/JUDGMENT

MAY/R.A./C.P. No.

in
DA. NO. 848/97

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

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