

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

\*\*\*

O.A. 1615/97.

Dt. of Decision : 4-3-98.

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|------------------|-------------------------|
| 1. Syed Buran    | 11. Kanakaiah           |
| 2. K. Rajaiah    | 12. Madhu               |
| 3. Narsimha      | 13. Mallaiah            |
| 4. Narsimha      | 14. Sivaiah             |
| 5. B. Laxman     | 15. P. Pochaiah         |
| 6. S. Ramchander | 16. Laxminarayana       |
| 7. Gangaiah      | 17. S. D. Ahmed Hussain |
| 8. Venkati       | 18. Muneerali           |
| 9. Nagaiah       | 19. G. Devender         |
| 10. L. Hanumaiah |                         |

.. Applicants.

Vs

1. The Chief Personnel Officer,  
SC Rly, Sec'bad.
2. The Divl. Railway Manager,  
SC Division, SC Rly, Sec'bad.
3. The Sr. Divl. Engineer,  
Electric Loco Shed, TRS wing,  
SC Rly, Sec'bad.
4. The Sr. Divl. Mech. Engineer,  
C&W, SC Rly, Sec'bad.

.. Respondents.

Counsel for the applicants : Mr. S. Lakshma Reddy

Counsel for the respondents : Mr. K. Siva Reddy, SC for Rlys.

CORAM:

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

Heard Mr.S.Lakshma Reddy, learned counsel for the applicants and Mr.K.Siva Reddy, learned counsel for the respondents.

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2. There <sup>are</sup> 19 applicants in this OA. They are Khalasi Helper, Pointman and Grade-I and III Fitters, etc., They were attached to BG Accident Relief Train of the Hyderabad Division. The ~~steam~~ Loco Shed, Hyderabad Division, was closed due to the Dieselisation. In view of that the applicants in this OA who were serving in the BG ART, Hyderabad Division with lien in the Hyderabad Division were relieved and attached to Electric Loco Shed, Lalaguda as per office order No.YP/652/Mech.Cad/HYD/Surplus dated 9-11-94 (Annexure-III to the OA). While they were working so, they were relieved and asked to join the Sr.Divisional ~~Mech.~~ Mech. Engineer (C&W) Secunderabad. The said transfer was effected on administrative reasons and they were relieved on 17-11-97 <sup>submits the respondents.</sup> It is stated that the applicants have not joined the organisation under the Sr.Divl. Mech. Engineer (C&W) Sec'bad except applicants No.14 and 17. Applicant No.14 and 17 have joined the organisation under Sr.Divl.Mech. Engineer (C&W) Sec'bad after issue of the order ~~dated~~ dated 3-12-97. ~~xxxxxxxxxxxxxxxxxxxx~~ The rest in view of the interim order dated 3-12-97 continued to attend the Electric Loco Shed, Lalaguda.

questioning  
3. This OA is filed <sup>questioning</sup> the action of the respondents in transferring the applicants for absorption in to C&W without their consent or obtaining the exercise of options of the applicants and without serving any notice or office order as totally arbitrary, illegal, without jurisdiction and violative of Articles 14, 16 and 2 of the Constitution and also in violation of principles of natural justice and consequently restrain the respondents from permanently transferring the applicants to C&W department contrary to the

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options already obtained from them at the time of transferring the applicants from the erstwhile steam loco shed, Lalaguda to ELS, Lalaguda to work as break down staff on deputation and further direct the respondents to absorb the applicants in ELS, Lalaguda on par with their juniors in the erstwhile Steam Loco Shed, Lalaguda with all consequential benefits.

4. The learned counsel for the applicants submit that the applicants were posted to Electric Loco Shed ART and hence they should have been absorbed in the Electric Loco Shed as even their juniors have been absorbed. In the face of the facts that the juniors <sup>to</sup> of the applicants were absorbed in Lalaguda, it is not permissible for the respondents only attach them to Electric Loco Shed for performing the ART duties and transfer them to C&W, Sec'bad Division on their own. Even if they want to transfer the applicants to C&W Sec'bad Division they should have issued a proper office order. Only after the issue of the office order they can be transferred to C&W Sec'bad. Without obtaining their option and consent and without issue the transfer order to C&W Organisation, Sec'bad the transfer of the applicants by relieving them from Electric Loco Shed is irregular and arbitrary. Hence they should be continued in the Electric Loco Shed <sup>and</sup> the option should be obtained before transferring them to C&W Sec'bad. A proper order on that basis should be issued if they are to be transferred to C&W Sec'bad.

5. The learned counsel for the respondents submits that the applicants were attached to Electric Loco Shed due to closing of the Steam Loco Shed, Hyderabad Division and by issue of the proper office order No.YP/652/Mech.Cad/HYD/Surplus dated 9-11-94 (Annexure-III to the OA) they were sent to Electric Loco Shed ~~for~~ on deputation as ART staff. That order clearly states that the applicants herein

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are shifted to Loco Shed, Lalaguda and attached to the Electric Loco Shed, Lalaguda. No where in the order it has been stated that lien from the Hyderabad Division has been discontinued and they were admitted as employees in the Electric Loco Shed, Lalaguda. As the work of the ART cannot be discontinued their services were put at the disposal of the Electric Loco Shed, Lalaguda who was looking after the Relief Train Duty. A proper order dated 9-11-94 has been issued in that connection. Hence the applicants cannot say that they are employees of the Electric Loco Shed, Lalaguda. They cannot also demand for absorption in the Electric Loco Shed even if their juniors are absorbed Electric Loco Shed. Their suitability was assessed and on that basis they were not taken on Electric Loco Shed. Only suitable candidates were absorbed in Electric Loco Shed, on the basis of the aptitude and for other technical reasons. As the ART is now attached to Sr.Divl.Mech.Engineer C&W, Sec'bad the applicants who were attached to the Electric Loco Shed, Lalaguda who are the Members of the ART were transferred to the organisation under the charge of Sr.Divl.Mech. Engineer C&W Sec'bad. They were transferred to the Sr.DME (C&W) on administrative grounds and hence they will not lose their seniority and other benefits because of this transfer. Their lien in the Hyderabad Division, because of the transfer, stands discontinued and they will become the employees of the BG Sec'bad Division C&W Department and their seniority position for further career advancement ~~and the~~ will be interpolated in the appropriate seniority unit on administrative grounds in the C&W department of Sec'bad Division. The non issue of the transfer order while posting them under the Sr.DME (C&W) is not irregular and such an order is also not warranted. The very fact that they are posted even without order shows that their lien is now maintained under Sr. DME (C&W) Sec'bad and that is sufficient to protect the interest of the applicants herein.

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6. The learned counsel for the respondents further submitted that the applicants were relieved on 17-11-97 and they have not joined the organisation in the C&W Department, Sec'bad Division. Hence the period may have to be treated suitably and because of that no order now can be issued showing the transfer to C&W department Sec'bad Division as that will lead to the demand from the applicants to treat their absence from 17-11-97 till they joined Sec'bad Division as duty and that will cause irreparable damage to the Railway organisation.

7. An interim order was issued in this OA on 3-12-97. By that office order the position as it obtained on that day i.e., 03-12-97 as regards the continuance or despatch of the applicants to ELS-ART/C&W, will continue till 10-12-97. That interim order was further extended from time to time.

8. The only point for consideration in this OA is whether the transfer to the C&W organisation, Sec'bad is in order or not or they should be continued in the Electric Loco Shed retaining their lien in the Electric Loco Shed or they should be sent back to the parent department viz., Hyderabad Division.

9. The applicants were attached to the Electric Loco Shed due to the closure of the steam Loco Shed, Hyderabad Division and the BG/ART was taken over ~~by~~ by BG Division of Sec'bad. Hence retaining them in Hyderabad Division without any work of ART duties after the steam loco shed had been closed will not be in order. If they are retained Hyderabad Division they have to be paid without any duties. Hence we do not find any irregularity by attaching them to the Electric Loco Shed, Lalaguda for discharging duties of the ART in Sec'bad Division of SC Railway. A proper order has been issued while attaching them to the Electric Loco Shed, Lalaguda by issue of the order dated 9-11-94. The applicants cannot also demand for including them in the Loco Shed seniority unit as it is stated that

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their suitability is not adequate to take them over to the Electric Loco Shed. It is for the department to decide who is suitable to get attached to the Electric Loco Shed. It is not the duty of Court or Tribunal to dictate in regard to admission of the employee in one department or the other. It depends on the suitability of the employee to be posted at a proper place. Hence we do not consider it necessary to go into the contention that the applicants should be taken in the Electric Loco Shed, Sec'bad Division as their juniors are ~~now~~ posted to the Electric Loco Shed, Lalaguda. The applicants have not proved anywhere that they are better <sup>suited</sup> than their juniors posted in the Electric Loco Shed, Lalaguda, Sec'bad Division. If the department decides that they are not fit enough to be posted to the Electric Loco Shed, Sec'bad the Tribunal will not pass any order to take them to Electric Loco Shed, Sec'bad just because they are attached to ART duties under Electric Loco Shed, Lalaguda.

10. The only point that is to be adjudicated is in regard to their transfer to C&W department of Sec'bad Division. The applicants are Fitters, Khalasi and Khalasi Helpers of the Mech. Branch when they worked in Hyderabad Division. They continued to perform the duties of Mechanical duties even when they were attached to the ART under the Electric Loco Shed, Lalaguda. Hence we do not see any irregularity if they are posted to the C&W organisation which is under the Mechanical department for performing duties of the ART duties when ART duties are assigned to the Sr.DME (C&W) Sec'bad. But when such an order was issued their lien from the Hyderabad Division is to be discontinued it is proper and essential to issue a proper office order in this connection so that there will be no ambiguity in regard to their posting, their lien and other consequential career benefits. It is possible that in the absence of such order somebody may dispute later that they are still continuing in Hyderabad Division. In that case the applicants in this OA will be put to serious disadvantage. Hence we have no hesitation in saying that an office order transferring them to perform the ART duties

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and keep the lien under the Sr.DME (C&W) Sec'bad has to be issued even though it is stated that they are relieved already. Their relief or otherwise has nothing to do if such an order is issued even now regularising their absorption under the Sr.DME (C&W) Sec'bad. Such an order will clearly indicate in regard to their lien and further career prospects such as promotion etc. Hence the respondents should issue such an order atleast now without any delay.

11. The learned counsel for the respondents submits that if such an order is issued the applicants may demand the period from 17-11-97 till they joined C&W Sec'bad Division to be treated as duty. It is not for us to give any direction at this juncture. It is a departmental action and how to regularise that period is left to the department to decide. Hence we direct the Chief Mechanical Engineer SC Railway to decide in regard to the treatment of the period from the date of relief from Electric Loco Shed, Lalaguda till they joined C&W organisation under the Sr.DME(C&W) Sec'bad BG Division.

12. The learned counsel for the applicants submits that the applicants are old and hence it will be difficult for them to discharge the ART duties and hence they should be relieved <sup>of</sup> ART duties and posted in the department. It is for the department to decide their suitability in some <sup>position</sup> ~~place~~ or other. The applicants if so advised, may submit a detailed representation for relieving them of the ART duties and posting them in the C&W department Sec'bad Division under the control of Sr.DME (C&W), Sec'bad. If such a representation is received the department should decide the issue in accordance with law.

13. The learned counsel for the applicants further submit that their juniors are already posted to the Electric Loco Shed, Lalaguda. The applicants should also be posted to the Electric Loco Shed instead of posting them in the C&W Department of Sec'bad Division. It is stated in the reply that the applicants are not

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suitable to be posted to the Electric Loco Shed. Hence it is for the department to decide and take action accordingly if there were vacancies in the Electric Loco Shed. For that also the applicants may represent suitably to the appropriate authority after joining in (C&W) Department, Sec'bad who in our opinion will take a decision in accordance with law.

14. In the result, the following direction is given:-

1) An office order of transferring them from Hyderabad Division to the C&W Department, Sec'bad Division under the control of Sr.DME (C&W), Sec'bad should be issued even if they are already relieved from Electric Loco Shed.

2) The treatment of the disputed period from the date of relief till they joined the C&W organisation, Sec'bad should be decided by the Chief Mech. Engineer of the SC Railway in accordance with law if required on hearing the parties concerned.

15. The OA is disposed of as above with the observations as given in para-12 & 13 above.

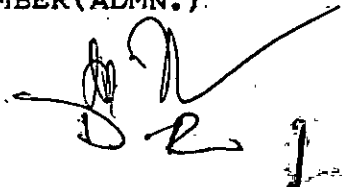
16. No costs.

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

4/3/98

Dated : The 4th March, 1998.  
(Dictated in the Open Court)

  
(R. RANGARAJAN)  
MEMBER (ADMN.)



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OA.1615/97

Copy to :-

1. The Chief Personnel Officer, South Central Railway, Secunderabad.
2. The Divl. Railway Manager, South Central Railway, South Central Division, Sec'ba.d.
3. The Sr. Divisional Engineer, Electric Loco Shed, TRS Wing, South Central Railway, Secunderabad.
4. The Sr. Divl. Mech. Engineer, C&W, South Central Railway, Secunderabad.
5. One copy to Mr. S.Lakshma Reddy, Advocate, CAT., Hyd.
6. One copy to Mr. K.Siva Reddy, SC for Rlys, CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate copy.

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TYPED BY  
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED: 4/3/98

ORDER/JUDGMENT

~~M.A./R.A/G.A.NO.~~

in

G.A.NO. 1615/97

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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| केन्द्रीय प्रशासनिक अधिकार<br>Central Administrative Tribunal<br>प्रेषण/DESPATCH<br>17 MAR 1998<br>हैदराबाद न्यायपीठ<br>HYDERABAD BENCH | 200 |
|---|-----|