

45

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.550/1999

DATE OF ORDER : 28.2.2000.

Between :-

I. Satish Kumar

...Applicant

And

1. Divisional Railway Manager,  
Hyderabad Division, Sec'bad,  
SC Railway, Sec'bad.
2. Divisional Personnel Officer,  
Hyderabad Division, SC Railway,  
Sec'bad.
3. Sailu Buchanana

...Respondents

-- -- --

Counsel for the Applicant : Shri S. Laxma Reddy

Counsel for the Respondents : Shri V. Rajeshwar Rao, SC for Rlys

-- -- --

CORAM:

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

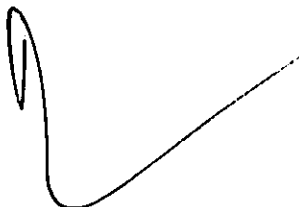
THE HON'BLE SHRI B. S. JAI PARAMESHWAR : MEMBER (J)

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



-- -- --

... 2.



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

-- -- --

Heard Sri S.Laxma Reddy, learned counsel for the applicant and Sri V.Rajeshwar Rao, learned Standing Counsel for the Respondents. Notice served on Respondent No.3 but called absent.

2. The applicant herein was appointed as Yard Khalasi ~~cadre~~ with effect from 8.2.1980. He submits that he has passed SSC and he applied for the post of Care-Taker when notification for recruitment from among the in service candidates was issued. He was appointed in the scale of Rs.950-1500 as adhoc Care-Taker <sup>NY</sup> on his own request. He submits that he was appointed as Adhoc Care-Taker and posted to Aurangabad through Office Order dated 24.1.1990 (Annexure-I page-8 to the OA). The applicant thereafter transferred to Jalna by order dated 15.6.1993 and again transferred back to Aurangabad vide order dated 30.1.1995. He was further transferred to present place of posting i.e. to Jalna by order dated 18.5.1998. The applicant submits that during his absence number of <sup>his</sup> juniors in the Yard Khalasi cadre were promoted ~~to~~ the higher grades. The applicant even submits that some of them were promoted as Asst. Station Master, Ticket Collector, TTEs etc.,. He also submits that many of them were promoted as Diesel Assistant in Loco Department. The applicant being a Matriculate applied for the regular appointment of Care-Taker in grade Rs.1320-2040 pursuant to the notification dated 5-6-1996. But he submits that it was rejected on the ground that he was not eligible. The applicant further adds in his rejoinder that the Sheds were abolished and many employees were made surplus. However, the Respondents failed to

make him surplus and <sup>hence</sup> ~~he~~ <sup>had</sup> ~~was~~ lost the opportunity of getting absorbed in the other cadres as was done in the case of <sup>his</sup> other juniors.

3. This O.A. is filed to declare <sup>that</sup> the action of the respondents in not considering the applicant to higher grade post along with his juniors and not regularising the services of the applicant as Care Taker and reverting the applicant through the impugned proceedings dated 30.3.1999 ~~is~~ totally arbitrary, unjust, illegal and without jurisdiction and violative of Article 14 and 16 of Constitution of India and to direct the respondents to regularise the services of the applicant as Care Taker or in the alternative promote the applicant to higher grade in any department on par with his juniors in the parental cadre of Yard Khalasi with all consequential benefits.

4. A reply has been filed in this case. The main contention in this O.A. is that the applicant has been appointed as Adhoc Care-Taker initially and he was also granted the lower of scale of pay of Rs.950-1500 instead of Rs.1320-2040 eligible for Care-Takers as he was <sup>an</sup> ~~an~~ adhoc appointee and the applicant had agreed to work in the scale of Rs.950-1500. None of his juniors in the Yard Khalasi cadre where he keeps his lien has been promoted. The applicant <sup>did</sup> ~~did not~~ ~~applied~~ for Diesel Assistant post when notification was issued. Further the post of Care-Taker is meant for Medically decategorised employees. The applicant is not a Medically decategorised employee and hence he was sent back to his Yard Khalasi post. No injustice has been done to the applicant herein.

D

5. We have heard both sides. It is very pertinent to note that the applicant was posted as Care-Taker at Aurangabad by order dated 24.1.1990 (Annexure-I page-8 to the OA) only on adhoc basis. If the applicant <sup>was</sup> ~~is~~ going to be aggrieved by posting him as Adhoc Care-Taker in the lower scale of Rs.950-1500, he should have protested and refused to join the post but he quietly accepted it and joined. Nothing is available on the record to show that he protested his posting in the scale of Rs.950-1500. The applicant submits that many of his juniors in the Yard Khalasi where he keeps his lien <sup>have been</sup> ~~were~~ promoted as Asst. Station Master, TC/TTE and Diesel Asst... No doubt if any of his junior in the cadre of Yard Khalasi had already been promoted to higher grade without considering the applicant, now the applicant should be considered and promoted on par with his juniors, if he is otherwise eligible. Such a direction is appropriate as the applicant keeps his lien in the Yard Khalasi post and the respondents have not shown that in the cadre of Yard Khalasi his lien is terminated. The applicant submits that his juniors in the Shed Khalasi cadre rendered surplus were posted as Diesel Assistants. It is not understood how a Yard Khalasi can compare <sup>his case</sup> ~~with~~ a Khalasi in the Shed which are two different seniority units. The comparison is not called for in our view. Further, the applicant was an Adhoc Care-Taker in the scale of Rs.950-1500. The Care-Taker post is meant for looking after the <sup>interests</sup> ~~interests~~ of those who come to Running Room such as Drivers, Firemen etc... Hence the post of Care-Taker/Running room cannot be made surplus. Even in the other modes of traction, keeping of Running Room is essential.

49

The applicant has not made out a case to consider him also for the post of Diesel Assistant on the basis of the notification as he did not apply for the same and also he was not made surplus from the cadre of Yard Khalasi. Further, the Respondents also submit that he has not applied when notification was issued calling for absorbing some of the Shed Khalasis as Diesel Assistants. The applicant has not produced any material to show that he did apply and requested the Respondents to treat him as surplus candidate and consider him for the post of Diesel Assistant. Hence non consideration of his case for the post of Diesel Assistant in our opinion cannot be faulted.

6. In the facts and circumstances of the case, the only direction that can be given in this case is that in case any of his juniors in his parental cadre of Yard Khalasi where he keeps his lien had<sup>2</sup> already been considered and promoted to higher grades without considering the case of the applicant, then the case of the applicant should<sup>-all</sup> now be considered for that post and if he is found fit, he should<sup>all</sup> be promoted on par with his juniors.


7. Hence the following direction is given :-

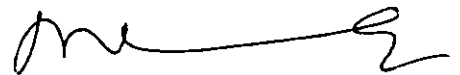
In case any of his juniors in his seniority unit of Yard Khalasi where the applicant keeps his lien had already been promoted to the higher grades without considering the case of the applicant, then the case of the applicant should also be considered now for such promotion and a decision should be taken in that connection. A suitable reply in this connection should be issued to the applicant within 45 days from the date of receipt of a copy of this order in regard to the decision taken.

2

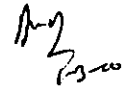
1

8. The Original Application is ordered accordingly. No order as to costs.

  
(B.S. JAI PARAMESHWAR)  
Member (J)  
28/2/00

  
(R. RANGARAJAN)  
Member (A)

Dated: 28th February, 2000.  
Dictated in Open Court.



avl/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,  
HYDERABAD.

1ST AND 2ND COURT

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

COPY TO

1. HDHND
2. HRRN ( ADMN ) MEMBER.
3. HBSJP. M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN  
MEMBER ( ADMN )

THE HON'BLE MR. B. S. JAI PARAKTESHWAR  
MEMBER (JUDL)

DATE OF ORDER 28/2/2000

MA/RA/CF.NO

IN

O.A. NO. 550/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER / ~~निर्णय~~ अधिकरण  
Central Administrative Tribunal  
NO ORDER / ~~निर्णय~~ DESPATCH

10 MAR 2000

हैदराबाद न्यायपीठ  
HYDERABAD BENCH