

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH
AT HYDERABAD

OA.569/99

dt.10-4-2000

Between

Y.N. Narasimha Murthy : Applicant

and

1. Union of India,
rep. by the General Manager
SC Rly., Rail Nilayam
Secunderabad

2. Divnl. Rly. Manager
(Personnel Branch)
SC Rly., Sanchalan Bhavan
Secunderabad

: Respondents

Counsel for the applicant

: G. Ramechandra Rao
Advocate

Counsel for the respondents

: C. Venkat Malla Reddy
SC for Railways

Ceram

Hon. Mr. R. Rangarajan, Member (Admn.)

Hon. Mr. B.S. Jai Parameshwar, Member (Jddl.)





OA.569/99

dt.10-4-2000

Order

Oral order (per Hon. Mr. R. Rangarajan, Member(Judl))

Heard Mr. G. Ramachandra Rao, for the applicant and Mr. C. Venkat Malla Reddy for the respondents.

1. The applicant in this OA while working as Technician Grade-I (TCM 'A') had absented unauthorisedly with effect from 27-3-1992 to 2-7-1995. He resumed duty vide medical certificate dated 25-7-95. He reported for duty with effect from 3-7-1995 and he was posted as Technician Grade I under CSTE, RE, BZA with effect from 25-7-1995.

2. In the mean time the posts of Master Craftsmen arose due to restructuring of the cadre. The applicant submits that his juniors were promoted as Master Craftsmen with effect from 18-1-1995..

3. The applicant on joining was issued with charge memo for his unauthorised absence from 27-3-1992 to 2-7-1995 by order No.VVRE:S&T:Gr.94/23 dated 30-8-96 (Annex.IV). He was punished by withholding of increment Rs.1500 to 1530 in the scale of Rs.1320-2040/- normally due on 1-7-1996 for a period of two years and his increment will be due on 1-7-1998 after punishment due to long absence. Even though major charge sheet was issued he was punished with minor penalty. In the said penalty order the period of absence from 27.3.92 to 2-7-1995 is treated as leave without pay and the said period will not count for pension.

4. Against that order the applicant filed an appeal which was disposed of by the Appellate authority by memo dated 9-1-1997 vide No.VVRF:S&T:Gr.94/23 (Annex.V). As per this the earlier penalty order passed by the disciplinary

authority was watered down to that of withholding one set of privilege pass due to his pass account for the year 1996. The period of absence was regulated by treating it as leave without pay by the Appellate authority.

5. The applicant thereafter filed a number of representations for considering ^{his case} for promotion as Master Craftsman with effect from the date when his juniors were promoted i.e. 18-1-1995, as Master Craftsman against the restructured posts. These representations were disposed of by the impugned order dated 30-3-1999, vide No.CP:676/MCM:Vol.2 (Annex.XI) rejecting his request for promotion against restructured post.

6. This OA is filed to set aside the impugned proceedings dated 30-3-99 on the file of Respondent No.2 and for a consequential direction to the respondents to promote the applicant in the post of Senior Technician/Master Craftsman in the scale of pay of Rs.1400-2300 (Rs.5000-8000) with effect from 1-3-1993 on par with his juniors with all attendant benefits including arrears of pay and seniority.

7. The main point that arises in this OA is whether the applicant can be promoted during the period he was away from duty without any sanction of leave and also without producing medical certificate for the period during which he was unauthorisedly absent.

8. The applicant submits that his punishment is only a minor one of stoppage of ^{pay} increments. The Disciplinary authority has decided that the said period of unauthorised absence will be treated as leave without pay only for the sake of pension and he has not stated anything in regard to other benefits during that period which accrued to him due to promotion of his junior as Master Craftsman. If that is the position, the learned counsel for the applicant submits

that he is entitled for promotion on par with his juniors with effect from 18-1-1995 when his juniors were promoted as Master Craftsmen with all attendant benefits. Therefore, he submits that during the period of absence though he was not available that will not stand as bar for him to get promotion.

9. We posed the same question to the learned counsel for the respondents. The respondents did not produce before us any rule contrary to that. However, he relies on the Railway Board's letter No. P.C.III/93/CRC/10 dt.17-7-1995 (Annex.R-IV) to state that the applicant cannot be promoted without putting him to trade test. He was trade tested later in the year 1997 and he had failed in that and he was not considered for promotion. We find that letter referred to have is later than 18.1.1995, hence we do not think this letter will hold the respondents to adhere to the decision taken.

10. It is ^a fact that the appellate authority in his order dated 9-1-1997 did not indicate as to how the period of absence has to be treated. If the punishment is only withholding of one set of privilege pass, if that be the case whether the absence period should be treated as leave due to him or leave without pay. If ~~such~~ a view is taken whether he is eligible for promotion on par with his junior even though he was not available on the day when his juniors were promoted as Master Craftsmen. In that view we feel that the decision of the appellate authority as to how ~~the~~ to treat that period is very vital in this case. If the authority decides the case as leave without pay or leave due to him then the applicant has a case to treat on par with his junior. But we do not propose to indicate any direction in this OA on the views of the Appellate authority for the treatment of period he was unauthorisedly absent.

*Let that basis the
view is to be
decided.*


DL

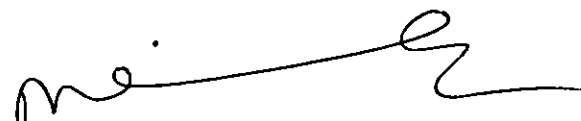
DL

11. In that view we feel that the Appellate authority should decide as to how the unauthorised absent period of the applicant for which he was chargesheeted, from 27-3-92 to 2-7-1995 be decided. On that basis he should also indicate whether the applicant has to be considered for promotion as Master Craftsman on par with his junior. The Appellate authority shall decide the above issue in accordance with law within two months from the date of receipt of copy of this order. A suitable reply should be issued to the applicant within that period. The applicant is at liberty to challenge the same if he is aggrieved by the reply.

12. With the above direction the OA is disposed of.

No costs.


(B.S. Jai Parameshwar)
Member (Judl.)
low


(R. Rangarajan)
Member (Admn.)

Dated : 10 April, 2000
Dictated in Open Court

By [Signature]

sk

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

COPY TO:

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

THE HON'BLE MR. JUSTICE J. H. IASIR
VICE-CHIEF

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

THE HON'BLE MR. B. S. CH. PARAMESHWAR
MEMBER (JUDL)

DATE OF ORDER

10/4/2000

MA/RA/CP.NO.
IN
CA.NO.

569/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWAL

ORDER/REJECTED

NO ORDER AS TO COSTS

(6 copies)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH

28 APR 2000

Despatch Nay

RECEIVED

रजिस्ट्रार/रिपपल से