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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.859/99

dt.24-3-2000

Between

Y. Krishtappa

: Applicant

and

1. Divnl. Rly. Manager
SC Rly., Guntakal

2. Sr. Dvnl. Personnel Officer
SC Rly., Guntakal

3. L. Jayapal Chowhan
Head Ticket Collector
SC Rly., Guntakal

4. S. Swamy Naik
Hd. TC, SC Rly.
Guntakal

5. Surendra
Sr. TC, SC Rly.
Guntakal

6. K. Kataiah
SR. TC, SC Rly.
Guntakal

: Respondents

Counsel for the applicant : G. Sanyasi rao
Advocate

Counsel for the respondents : JR Gopal Rao,
SC for Railways

Coram

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

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





OA.859/99

Dt.24.3.2000

ORDER

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.G.S.Rao for the applicant and Mr.J.R.Gopal Rao for the respondents.

2. The applicant was posted as Ticket Collector on 25.11.1991. There was a case pending against him and that case was dropped by order NO.ACM:GTL: Lr.No.G2/V/94/36/K3 dated 18.12.1995 (Annexure A.II). On 6.4.96 the promotion of TCs as Senior TCs/Sr.TTEs was issued. The applicant was empanelled but he was not actually promoted on par with his juniors even though the case pending against him had already been dropped. When he was not promoted as per the promotion order dated 6.4.96 and his juniors were promoted as per that order, the applicant did not care to challenge the same.

3. By the order dated 14.10.96 vide No.G/P.535/11/S/Vol.VIII/Pilot (Annex. A-5) the applicant was promoted as Senior TTE/Sr.TC with effect from 14.10.96. The respondents have filed office order NO.G/P.535/II/Vol.VIII/Pilot dated 19.6.97 (Annexure R.V at page 23 to the reply) giving proforma promotion to the applicant as Senior TTE, Guntakal with effect from 24.1.1995 and his pay was also fixed in the scale of Rs.1200-2040 from that date notionally.

4. The applicant submits that he should get arrears from 24.1.1995 and also his seniority. This oA is filed to



consider the case of the applicant for promotion to the post of Senior Ticket Collector from 6.4.96 wherein his juniors were promoted and also as HTTE/HTC from 19.9.96 against the backlog of ST vacancies and also for consequential benefits such as fixing of seniority in Sr.TC and HTTE/HTC posts and payment of arrears in the respective grades.

5. The applicant has been promoted as Sr.TC/Sr.TTE with effect from 24.1.1995. Hence, his seniority in the cadre of Sr.TTE should be fixed from the date of his proforma promotion with effect from 24.1.1995 and on that basis his further promotion as HTTE/HTC should be given to him on par with his juniors against ST quota. The case of the applicant should be considered, if not already considered, for promotion to the post of HTTE/HTC. If the applicant passes the examination in the first attempt, then he should be deemed to have been promoted to HTTE/HTC from the date of promotion of his immediate junior against ST quota. If he has not passed in the first attempt then his date of promotion and fixation of his pay in that pay scale will be from the date when he is promoted in the subsequent attempts in accordance with the recruitment rules for promotion to the post of HTTE/HTC. In case he is to be promoted against ST quota as HTTE/HTC on par with his juniors if he passes the examination in first attempt, then he is entitled for fixation of his pay and arrears from the date his immediate junior against ST quota was given the post of HTTE/HTC. The applicant prays for fixation of his pay as STC from the date when his juniors were promoted i.e, from 6.4.96. He did not ask for his fixation of pay



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with effect from 24.1.95 due to the revised order issued by the respondents themselves by the order dated 19.6.97 (Annexure R-V at page 23 to the reply). At the outset, it is to be held that even though the applicant requests now at the time of hearing to give arrears from 24.1.95 from which date he was given promotion, the same was not finding in the relief column in the OA. The relief which is not asked for cannot normally be granted. In this case, we have already indicated that the applicant did not challenge his non promotion when his juniors were promoted on the basis of the order dated 6.4.96 even though his name was finding a place in the order dated 6.4.96. That itself, in our opinion, is a lapse on the part of the applicant and such delay and laches cannot be condoned to grant him the relief of payment of arrears from 24.1.95 especially so when he has not prayed for the same in the relief column. Probably, he was not aware of the relief he is entitled to at the time when he filed this OA. In spite of the fact that he had not challenged his non promotion on the basis of the order dated 6.4.96 we think it fit to grant him arrears from 6.4.96 even though he was actually promoted from 14.10.96. The above relief has been granted in view of the fact that non promotion of the applicant with effect from 6.4.96 is uncalled for especially so when the charges against him were withdrawn.

6. The applicant wants to get arrears with effect from 24.1.95. This Bench normally grants arrears only from the date an employee discharges full duties and responsibilities. In spite of that and in view of the facts and circumstances of this case, we have granted the relief

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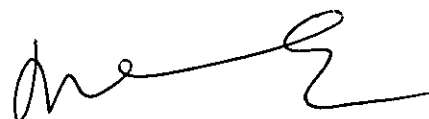
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of granting arrears from 6.4.96 even though he had taken full duties and responsibilities of post only with effect from 14.10.96. The applicant relies on the judgement of this Tribunal reported in (1997) 36 ATC 225 (D.L.Deshpande v. Divisional Railway Manager and another) to state that the applicant is entitled for the relief from 24.1.95. A study of the facts of this case makes us believe that there was no delay and laches committed by the applicant ^{therein} _{As} stated earlier for his non promotion as per the order dated 6.4.96. ^{the applicant herein did not challenge} In our opinion, consistency in the judicial proceedings is very essential. Considering the above points and on the basis of the facts and circumstances of the case, we are of the opinion that the applicant is not entitled for arrears from 24.1.95 but eligible to get arrears from 6.4.96. In case the applicant is promoted as HTTE/HTC ^{on} _{by} passing the selection examination in first attempt, he is not only eligible for promotion on par with his juniors promoted against ST quota but also arrears from the date his junior ST employee was promoted as HTTE/HTC.

7. With the above direction, the OA is disposed of.
No order as to costs.


(B.S. JAI PARAMESHWAR)

MEMBER (JUDL.)
24.3.00



(R. RANGARAJAN)

MEMBER (ADMN.)

DATED: 24th March, 2000

Dictated in the open court

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sum

sk/vsn

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

1. ~~HOHND~~

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

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

3. HBSJP. M. (JUDL)

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

4. D.R. (ADMN)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

DATE OF ORDER 24/3/2000

~~MA/RA/CP.NO~~

IN

C.A. NO. 859/99.

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.R. CLOSED

R.A. CLOSED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद बेंच
HYDERABAD BENCH

12 APR 2000

Despatch

RECEIVED

अथ विभाग/DEPT. SECTION