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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

HYDERABAD BENCH: AT HYDERABAD

OA.1181/99

dated: 16.6.2000

Between

S. Nagaraja Rao

: Applicant

And

1. Chief Personnel Officer
SC Railway, Railnilyam
Secunderabad

2. Sr. Divisional Personnel Officer
SC Rly, Vijayawada Division
Vijayawada

3. Smt. V. Radhakrishna Kumari
Head Clerk, Carriage Repair Shop
SC Rly., Tirupathi

: Respondents

Counsel for the applicant

: K. Sudhakar Reddy, Advocate

Counsel for the respondents

: N.R. Devaraj, SC for Railways

: P.M. Prinivose Rd. Jr. N.J.

Coram

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

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

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ORDER

Oral Order (per Hon. Mr. R. Rangarajan, Member(Admn))

Heard Mr. K. Sudhakar Reddy for the applicant and Mr. N.R. Devaraj for the respondents.

2. The applicant and the respondent No.3 while working as Head Clerk, at Carriage Repair Shop, Tirupathi and Vijayawada respectively exchanged their places on mutual transfer. The applicant was working as Office Superintendent Grade II at Tirupathi but that point should not be considered as he asked for mutual transfer with one Smt. V. Radhakrishna kumari, who was at Vijayawada at that time. In the mutual transfer application it is stated that Respondent No.3 was working as Head Clerk on 20.12.1989. However, that date was corrected as 1.10.89. It is also seen from the letter addressed to WPO/TPYS the Personnel Officer has clearly stated that the ^{Q-3} applicant is in Senior Grade of Head Clerks in the Vijayawada Division with effect from 1.10.89.

3. The applicant joined at Vijayawada by order dated 25.6.1999 Annex.R.2. However it was noticed that the Respondent No.3 was promoted regularly as Head Clerk in Vijayawada only with effect from 27.2.1993. Hence the applicant was given the seniority as Head Clerk in Vijayawada Division from 27.2.1993 when the Respondent No.3 was promoted regularly as Head Clerk. ^{name was} He was lowered down in the seniority in the category of Head Clerks, Vijayawada. Aggrieved by that the applicant has submitted representation dated 13.2.1999 which was disposed of by the impugned order dated 13.2.1999 rejecting his claim for earlier seniority i.e. 1.10.1989.

4. This OA is filed to set aside the impugned letter dated 11.3.99 and for a consequential direction to the respondents to correct the date of entry of the applicant as Head Clerk in the Electrical Department, in Vijayawada, as on 1.10.89 instead of 27.2.93 by suitably interpolating his name in the provisional

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seniority list issued. Or in the alternative direct the respondents herein to repatriate him to Carriage Repair Shop, Tirupathi, duly maintaining status-quo prior to mutual transfer from Tirupathi to Vijayawada.

5. The respondents admit that it is a clerical mistake in noting the date of entry as 1-10-1989. When a mutual transfer takes place it is incumbent upon the respondents to ~~ensure~~ ^{enter} that the correct date is mentioned so as to ensure that the ~~official~~ [^] applicants who are mutually transferred do not suffer later. It is also responsibility of the applicant to see that the correct date of regular entry of a particular member before applying for mutual transfer. Both the parties failed to ensure that. Hence, both are equally responsible for the mistake committed. The applicant loses about two years of his seniority in the category of Head Clerk due to this mistake. We feel that lowering of such seniority will definitely affect the applicant.

6. Though impleaded as a Private Respondent neither the Respondent No.3 nor her counsel is present. One P.M. Srinivasa Rao, signed the vakalat nama for representing Respondent No.3. When this OA came up for hearing day before yesterday it was mentioned on behalf of Mr. P.M. Srinivasa Rao that he will be attending the Tribunal and submit on behalf of Respondent No.3. Hence this OA was adjourned day before yesterday to hear Mr. Sreenivas rao. But today Mr. Srinivasa Rao is not present and the Respondent No.3 is also not present. Hence, ~~will be~~ ^{will be known} we feel that no useful purpose in adjourning this OA.

7. Hence, as stated earlier, the Respondent No.3 has not given her date of entry in Head Clerk cadre correctly in her application and that she had been promoted on adhoc basis in the year 1989 only and had ~~not~~ ^{this be} known the applicant may not have accepted for mutual transfer and would have rejected. The Respondent No.3 is responsible for giving wrong date of entry as Head Clerk in Vijayawada. The respondents also failed to take the correct date of entry before forwarding the mutual transfer application to Tirupathi workshop.

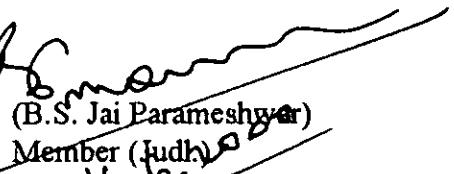
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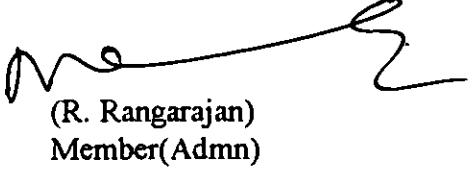
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8. Under the circumstances we feel that mutual transfer already granted has to be cancelled and the parties concerned i.e. the applicant and the Respondent No.3 should go back to their original places. When they join back in their ^{earlier} respective places they will regain their original seniority in the appropriate category.

9. The respondents should ensure that the above order is implemented within two months from the date of receipt of copy of this order.

10. This OA is ordered accordingly. No costs.


(B.S. Jai Parameshwar)
Member (Judh.)


(R. Rangarajan)
Member (Admn)

Dated : 16 June, 2000
Dictated in Open Court


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

COPY TO

1. HON. CHIEF JUSTICE
2. HON. MEMBER (ADMN.)
3. HON. MEMBER (JUD.)
4. D.R. (ADMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

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

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

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

DATE OF ORDER 16/6/00

MA/RA/CP. NO.

IN
CA. NO. 118/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALL DUED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

(2 copies)

