

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :HYDERABAD BENCH

AT HYDERABAD

O.A.No.1020/99

Date of Order : 13.2.2001

BETWEEN :

B.Narayana

.. Applicant.

AND

1. General Manager,
(Rep. UOI), S.C.Railway,
Rail Nilayam, Secunderabad - 500 071.

2. Divisional Railway Manager,
S.C.Railway, Guntakal Division,
Guntakal.

3. Sr.Divisional Personnel Officer,
S.C.Railway, Guntakal Division,
Guntakal.

4. Asst. Engineer/Special Works,
S.C.Railway, Guntakal.

5. Section Engineer/Works/North,
S.C.Railway, Guntakal. .. Respondents.

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Counsel for the Applicant .. Mr.S.Ramakrishna Rao

Counsel for the Respondents .. Mr.K.Narahari

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CORAM :

HON'BLE MR.JUSTICE V.RAJA GOPALA REDDY : VICE CHAIRMAN

HON'BLE MR.M.V.NATARAJAN : MEMBER (ADMN.)

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O R D E R

X As per Hon'ble Mr.Justice V.Raja Gopala Reddy, VC X

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The applicant filed the present OA seeking a direction to conduct the trade test for the post of Carpenter/Helper and for consequent promotion ~~to the said post~~ with effect from the date his juniors were promoted, with all consequential benefits.

2. The applicant was initially engaged as Extra Casual Labour/Carpenter in 1978 on daily wage basis and on completion of the requisite number of days of continuous service he became eligible for conferment of temporary status. Subsequently he was absorbed as casual labour and was posted as loading and unloading khalasi on 28.12.89. The case of the applicant is that though he was designated as loading and unloading khalasi he was physically performing the duties of Carpenter as per the directions of 5th respondent and thus he had acquired proficiency in carpentry. Having thus ^{grained} the experience in carpentry, he had applied for change of category from loading and unloading khalasi to carpenter khalasi in 1991. His application was forwarded by 5th respondent to 4th respondent thereafter to 3rd respondent and the order dated 17.9.91 was issued posting the applicant as carpenter khalasi in the same scale against the existing vacancy. The proceedings dated 19.3.96 were issued directing to conduct the trade test in favour of the employees mentioned in the proceedings for the post of carpenter helper and the applicant was one of them. But the said test was not conducted in respect of the applicant alone, ^{for no valid} ~~without giving any~~ reasons.

The applicant filed a representation on 6.7.96 seeking to conduct the trade test and to promote him along with others.

But the representations have neither been replied ^{to} nor he was trade tested. Hence he filed the present OA.

3. The respondents filed more than one reply in which it was stated that the applicant was not entitled to be trade tested because he was never appointed as carpenter khalasi. He has been appointed as loading and unloading khalasi and there was no appointment as carpenter khalasi as such. He was only posted as carpenter khalasi but he was neither selected nor appointed as such. He was appointed as loading and unloading khalasi on 3.6.91 and was confirmed on 29.11.95 and till date he was continuously working as loading and unloading khalasi.

^{1. evnt fm}
It is also ~~stated in~~ the proceedings dated 3.4.96, the applicant has applied as loading and unloading khalasi for the post of carpenter khalasi and it is therefore baseless to contend that he had already been appointed as carpenter khalasi in 1991. When it is found that the applicant's name was included in the carpenter khalasi list for promotion to the semi-skilled post the said mistake was discovered and he was not trade tested.

4. We have given careful consideration to the pleadings as well as the arguments advanced by the learned counsels.

5. The learned counsel for the applicant places reliance upon the proceedings dated 17.9.91 which is an office order No.14/91 to show that there was a change of category to the post of carpenter khalasi from loading and unloading khalasi. A close reading of the office order however does not give any indication that there was any such change of category in respect of the applicant. He was only "posted as carpenter khalasi in the same scale" in the existing vacancy caused due to the promotion of Sri N.K.Ramesh carpenter khalasi as carpenter Gr-III". The contention of the learned counsel that the applicant was appointed as carpenter khalasi or there was change of category are not supported by this proceedings. It appears that the applicant was only asked to work in the post of carpenter khalasi. Infact the applicant himself states in the OA that ^{as} he was proficient in carpentry he was physically placed in the post of carpenter khalasi and on the basis of the proficiency thus acquired, he applied for inclusion of his name in the list of trade test and promotion to the post of carpenter helper. His name was also shown in the list of carpenter khalasis to be trade tested. But however in view of the representations made by certain seniors his case was kept in abeyance and it was now discovered as seen from the averments made in the reply that he was never appointed as carpenter khalasi or any change of category was made as contended by the learned counsel for the applicant. He remained as loading and unloading khalasi.

6. In the consolidated reply Annexure-R-3 was filed to show that even on 3.4.96 (subsequent to the date of list in which he was sought to be trade tested) the applicant had applied as loading and unloading khalasi had opted to the post of carpenter khalasi. We have also perused the pay slips for the years from 1994-2000 where he was designated as loading and unloading khalasi. The above material shows that the applicant was not entitled to be trade tested for promotion to the post of carpenter helper. It is not in dispute that only carpenter khalasis who are appointed on regular basis are entitled for trade testing for promotion to the post of carpenter helper, as the applicant was only loading and unloading khalasi he was rightly excluded for consideration from the list in question.

7. We do not find any substance in the OA. The OA is therefore dismissed. No costs.

M.V. Natarajan
(M.V. NATARAJAN)
Member (Admn.)

On behalf
(V.RAJA GOPALA REDDY)
Vice Chairman

Dated : 13th February, 2001

(Dictated in Open Court) *L*

22.2.2001

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYD BENCH:HYDERABAD

COPY TO

✓ 1. HVRGRD

2. HONORABLE MEMBER (JUDL)

3. HON. MEMBER (ADMIN)

✓ 4. D.T. (ADMIN)

✓ 5. SPARE

6. ADV CATE

7. STANDING COUNSEL

1ST AND 2ND COURT

TYPED BY ✓ CHECKED BY
COMPIRED BY ✓ APPROVED BY

THE HONORABLE MR JUSTICE V.RAJA GOPAL REDDY,
VICE-CHIEF JUDGE

THE HONORABLE MR SRI PARAMESHWAR
MEMBER (JUDL)

THE HONORABLE MR N.V.NATARAJAN
MEMBER (ADMIN)

DATE OF ORDER: 13/2/2001

PL/PA/2001/2001

IN

CASE NO: 1020/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISP S.D. / R WITH DIRECTIONS

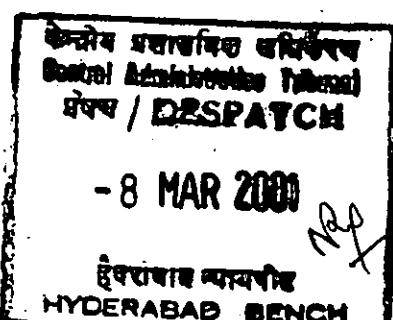
DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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