

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.172/99

at.6-4-2000

Between

VVSN Gupta

: Applicant

and

1. Union of India,
rep. by the General Manager
SC Rly., Rail Nilayam
Secunderabad 500071

2. Chief Personnel Officer
SC Rly., Railnilayam
Secunderabad 500071

3. Divnl. Rly. Manager
SC Rly., Guntakal Divn.
Guntakal, Anantapur Dist.

4. Divnl. Rly. Manager
SC Rly., Vijayawada Divn.
Vijayawada

: Respondents

Counsel for the applicant

: G. Ramachandra Rao
Advocate

Counsel for the respondents

: C.V. Malla Reddy
SC for Railways

Ceram

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. G. Ramachandra Rao for the applicant and Mr. C.V. Malla Reddy for the respondents.

1. The applicant in this OA was an Enquiry cum Reservation Clerk (ECRC) working in the scale of pay of Rs.1200-2040. There are three grades of ECRCs viz. Rs.1200-2040; Rs.1400-2300; and Rs.1600-2600. Initially all the three grades were controlled by the Headquarters of South Central Railways. However, with effect from 1.7.1986 the two grades of ECRCs viz. Rs.1200-2040 and Rs.1400-2300 were bifurcated and decentralised. The ECRC grade of Rs.1600-2600 was continued to be a Headquarter controlled post.

2. At the time of bifurcation of the above two grades and divisionalised there were vacancies in the scale of Rs.1400-2300. Before bifurcation options were called for from all the ECRCs to give options to the division of their choice for being posted. It is stated that the applicant had given his willingness to go to Secunderabad Division. He did not carry out his transfer to Secunderabad division and continued in Guntakal Division where he was before bifurcation due to his own reasons. The posts of ECRCs in the scale of Rs.1200-2040 and Rs.1400-2000 were divisionalised and those posts were combined for all purposes of seniority and further promotions in Guntakal and Hubli divisions. As stated earlier there were vacancies in the grade of Rs.1400-2300 in the combined ECRC cadre in Hubli and Guntakal divisions.

3. As the posts of Rs.1400-2300 were not filled up in time in the combined unit of Guntakal and Hubli though the applicant was senior to some of the ECRCs in the scale of Rs.1200-2040 in other divisions, ^{he} was not promoted to the scale of Rs.1400-2300 even though his juniors in other units were promoted to the scale of Rs.1400-2300. The applicant was promoted as ECRC in the scale of Rs.1400-2300 with effect from 28.12.1987. Thus the ECRCs promoted to the post of ECRC in the scale of pay of Rs.1400-2300 earlier to the promotion to the applicant to that scale on 28.12.1987 were shown senior to the applicant in the integrated seniority list for promotion to Headquarter controlled post in scale of Rs.1600-2600.

4. The contention of the applicant is that had he been promoted as ECRC in the scale of Rs.1400-2300 on the date of bifurcation on 1.7.1986 or subsequently his seniority would not have

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Action was
been lowered down. ~~The attention~~ is not taken to promote him in the scale of Rs.1400-2300 in time, he was promoted to that scale only on 28.12.1987 which resulted in the lowering of his seniority in the scale of Rs.1400-2300. That lowering of seniority in the scale of Rs.1400-2300 further resulted in his non promotion to the post of ECRC in the scale of pay of Rs.1600-2600 on par with his juniors in the erstwhile scale of pay of Rs.1200-2040.

5. In view of the above, the applicant submitted a representation addressed to the Respondent No.2 for showing him as senior in the grade of Rs.1400-2300 to those in the Secunderabad division who were promoted during June, 1987, by his representation dated 28.11.1988 (Annex.9)

6. It is stated that he also pursued his case with further representation but no reply was given to him. In the meantime unions also took up the case for proforma promotion to the ECRC for the scale of Rs.1400-2300 on par with his juniors in the erstwhile pay scale of Rs.1200-2040. The South Central Railway employees union was replied by the Administration by letter dated 2.1.98 rejecting their request on the ground that the individuals who opted for posts of ECRCs in the division consequent to the decentralisation of the cadre as recommended as per rules and was no comparison can be made with the erstwhile juniors before decentralization of the cadre. Other unions also ~~were~~ ^{was} reported to have been replied accordingly.

7. The applicant was also informed by letter dated 23.11.98 rejecting his case. The applicant further contends that none other will be affected if he is given proforma seniority, as others could not be promoted due to some disciplinary proceedings imposed against them. The applicant is the only candidate eligible to get proforma promotion on par with his juniors from the earlier date viz.25.6.1987 instead of 28.12.1987.

8. This OA is filed praying for setting aside the proceedings No.P(T)/694/SCRES/GMPNM/XXIX-12 dated 2.1.1998 addressed to the General Secretary, SCRES rejecting the case of the applicant for getting proforma promotion from the earlier date and also the impugned letter No.B/P.612/I/ECRC dated 23.11.1998 wherein the applicant was informed that his case was rejected. *and* for a consequential direction to the respondents to give proforma promotion to the applicant in the grade of Rs.1400-2300 in the post of ECRC with effect from 1.7.1986 with all attendant benefits including seniority, fixation of pay and arrears of pay other wise the applicant will be put to great hardship and irreparable loss.

9. Before examining this issue the general position as obtaining in the Railways where a highest post is controlled by headquarters and employees of various divisions are to be considered for promotion to the higher from a divisionally controlled lower category posts on the basis of integrated seniority list. It is fact that the post of StationMaster in the highest grade is

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controlled by Headquarter division. The lower grade posts are controlled by the divisions. In many divisions promotion to the lower category divisionalised posts are not filled at the same time. They were filled at different times. That provision lowers down those who were promoted later in the divisionalised posts in the integrated seniority list for promotion to the higher grade post controlled by the headquarters. It is not only in the cadres of ASMs such position prevails ~~but~~ also in number of other categories. Hence if the proforma promotion as requested in this OA is allowed, then the position in other categories also has to be considered and proforma promotion should be given. Such wholesale challenge in proforma promotion cannot be given unless there is extraordinary circumstance, which necessitates upgrading of the seniority in the lower divisionalised cadres of some divisions.

10. In the present case the applicant had given his option to go to Secunderabad division. Had he carried out his transfer, probably the position he is now ^{has} ~~may~~ not have occurred. The applicant on his own stayed in Guntakal and that resulted in the category of ECRC promotion in the scale of Rs.1400-2300 at later date. Giving proforma promotion for the applicant for the reasons stated by him is not conducive as such decision will lead to unnecessary litigations in the same category as well as in other categories. Hence, we do not consider it necessary to grant him relief as prayed.

11. Secondly the applicant knew that his seniority in the scale of Rs.1400-2300 is with effect from 28.12.1987. He first put in his representation in the year 1988. It is not known as to why he has not taken up his case with the judicial forum if his request is not conceded at that time itself? He has filed this OA in the year 1999 presumably because he got a letter rejecting his case in 1998. He represented in the year 1988 and if he did not get any reply within reasonable time there is no reason to keep quiet. He should have approached judicial forum then and there itself and obtain ^{some} relief. Hence, it may be construed that this OA is a belated one.

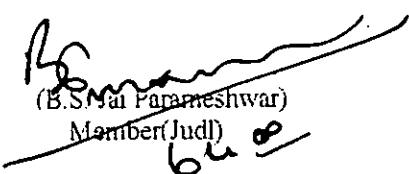
12. The applicant submits that it is only a proforma promotion and there by ^{it} he is placed at a higher place in the combined list of ~~ASMs~~ ^{ECRCs} in the scale of Rs.1400-2300 for promotion to the headquarter controlled cadre of Rs.1600-2600. That would mean that even with his proforma promotion he would supersede some of the ECRCs who were promoted to the scale of Rs.1400-2300 earlier to him. Hence, in all fairness it is necessary to hear them before passing any order in regard to granting of relief as prayed for by the applicant in this OA. But we do not find any ~~of them~~ ^{having been} ~~necessity to implead~~ ^{as} ~~them~~ ^{taken} as private respondents. Hence, non-impleading all the private respondents who are affected if relief is granted is ~~vital~~ ^{vital} to the applicant.

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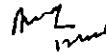
13. Considering the above points we are of the opinion that the applicant cannot be granted the relief as prayed for. Hence the OA is liable to be dismissed and accordingly it is dismissed.

No costs.


(B.S. M. Parameshwar)
Member(Judl)


(R. Rangarajan)
Member(Admn)

Dated : 6 April, 2000
Dictated in Open Court


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

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COPY TO

1. HONMJ
2. HONR (ADMN) MEMBER. THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)
3. HONSP. M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

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

DATE OF ORDER

6/4/00

MA/RA/EP.NO

IN

C.A. NO. 172/09

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.R. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED
Central Administrative Tribunal
NO ORDER AS TO DETERMINE
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