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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.245/99.

dt.27.12.99

Between

S.Sahu

: Applicant

And

1. The Admiral Supdt.
Naval Dockyard,
Visakhapatnam
2. The Flag Officer Commanding in Chief,
Eastern Naval Command,
Visakhapatnam
3. The Chief of Naval Staff,
Naval Headquarters
New Delhi.

: Respondents

Counsel for the applicant

: P. Bhaskar, Advocate

Counsel for the respondents

: J.R. Gopal Rao, CGSC

CORAM

Hon. Mr. Justice D.H. Nasir, Vice Chairman

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

ORDER

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

None for the applicant. Heard Ms. Shakti for Mr. J.R. Gopal rao for the respondents.

1. The applicant submits that he was promoted as Foreman from the post of Senior Chargeman by order No.PIR/0123/TSS/FM & SCM dated 21-9-1983, which is enclosed as Annex.R-1 to the reply. It is stated that at the time of issue

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of the order, the applicant was on Temporary duty at Chennai and he was not issued movement order due to service exigencies to join the promotional post. Due to the non-issuance of the movement order he was attending to the emergency duties at Chennai and hence he could join at Calcutta only on 1.11.1983. He further submits that had the movement order been issued he would have joined in September, 83 itself and that would have given ^{him} seniority from 21.9.83 instead of the present seniority given to him with effect from 1.11.1983

2. An interim order was passed in this OA to the effect that any promotion made to the post of Foreman (ICE) is subject to the outcome in this OA.

3. Reply has been filed in this OA. The contentions of the respondents are as follows.

(a) The applicant is not a promotee to the grade of Foreman. He is a Direct recruitee as is evident from the appointment order No.PIR/0123/ TSS / FM&SCM dated 21.9.1983 (Annex.R-I to the reply).

(b) The date of appointment of the applicant as Foreman was shown as 1.11.83 in the earlier seniority list issued in 1993. His representations were submitted belatedly on 7.2.1995 and 14.6.95 and was disposed of by the reply No.PIR/0503/TSS/PC-4 dated 26.8.95 (Annex.R.III to the reply) stating that he had joined as Foreman (ICE) under Direct Recruitment on 1.11.83 while S/sri P. Joseph and P. Tripathi, Foreman (ICE) were promoted on 5.6.1982 and 18.10.1983 respectively and hence both are seniors to him. Hence his request to update his date of entry from 1.11.83 to 23.8.83 was rejected. The applicant filed this OA only on 9.2.98 and hence it is an invalid application. In view of that the applicant cannot ask for relief as prayed for in this OA.

(c) Further, it is submitted that the applicant had not impleaded S/Sri P. Joseph and P. Tripathi as private respondents and as applicant will go above Tripathi if his date of joining as Foreman (ICE) is shown as

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21.9.93, ~~At~~ least Tripathi should have been impleaded. Non joinder of the proper parties is also a reason for not granting relief in this OA.

In view of the above the respondents submit that the applicant is not entitled for the relief.

4. The contentions raised by the respondents in the above is acceptable. But the respondents did not indicate the reason for not relieving from the emergency duties at Chennai when he was sent there for emergency work to join higher post immediately when the order was issued. The respondents should have stated whether non issuance of the movement order to him to move from Chennai to Calcutta as above to join as Foreman (ICE) is due to the failure of the applicant or respondent. Hence the reply filed in this OA lacks important ingredient in that connection.

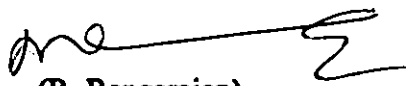
5. In view of that the following direction is given:

The Respondent No.1 should examine the reasons for not relieving the applicant from emergency duties at Chennai when his posting order No.PIR/0123/TSS/FM&SCM dated 21.9.83 was issued posting him as Foreman (ICE) at WOT Calcutta. If that non-relieving or non-issuance of the movement order to enable the applicant to move from Chennai to Calcutta to take over the post of Foreman (ICE), is due to the respondent's failure, then the case of the applicant requires reconsideration in fixing his date of entry as Foreman (ICE) from the date of issue of the order dated 21.9.83. If that non-issuance of movement order is the result of the action of the applicant, then the applicant cannot get any relief. The above issue should be considered from the records as it is only a factual verification and a suitable speaking order should be issued to the applicant within a period of two months from the date of receipt of copy of this order. If the seniority of the applicant has to be brought up in pursuance of the

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above order, then the seniority list should be amended after following the extant rules in this connection.

6. The OA is ordered accordingly. No costs.


(R. Rangarajan)
Member(Admn)


(D.H. Nasir)
Vice Chairman

Dated : 27 December, 99
Dicated in Open Court



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