

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA No. 246/99
Between:-

Dt. of Order: 17.2.2000

1. S.Joshua Peter	5. Smt.Lydia Krupauni
2. S.M.Singh Sodhi	6. S.Krishna Kumar
3. N.Krishna	7. K.E.Sujatha
4. A.Ravinder Reddy	8. G.R.Paravathi

...Applicants

And

1. The Chief Personnel Officer, S.C.Railway, Rail Nilayam, Sec'bad.
2. The General Manager, S.C.Railway, Rail Nilayam, Sec'bad.
3. The Divisional Railway Manager, Hyderabad Division, S.C.Railway, Sec'bad.

...Respondents

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COUNSEL FOR THE APPLICANTS : Shri K.Venkateshwar Rao

COUNSEL FOR THE RESPONDENTS: Shri J.R.Gopal Rao, Addl.CGSC

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CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri K.Venkateshwar Rao, learned counsel for the applicants and Sri J.R.Gopal Rao, learned Standing Counsel for the Respondents.

2. There are 8 applicants in this OA. Applicants 1, 2, 3, 4, 6, 7 and 8 are senior clerks in the Hyderabad Division in Electrical Department under the Senior Divisional Electrical Engineer. Applicant NO.5 is ^{an} Head Clerk. Now it has been stated that she has been reverted as Senior Clerk. The applicants contend that ^{distinct} there are 4 seniority units in Sec'bad area in S.C.Railway for promotion from Jr.Clerk to Sr.Clerk ; (1) Chief Electrical Engineer's Office (2)Lalaguda Workshop of S.C.Railway (3) Sec'bad Division of S.C.Railway and (4) Hyderabad Division of S.C.Railway. The applicants are ~~the~~ borne as Jr.Clerks of Hyderabad Division of S.C.Railway. The applicant submits that their promotional prospects ~~from~~ ^{to} the post of Sr.Clerk are ^{bleak} ~~poor~~ whereas the promotion from Jr.Clerk to Sr.Clerk in other 3 units are much better than theirs and hence the seniority of Jr.Clerk of all the four units should be combined to get them the benefit of quicker promotion. They further add that they submitted a representation dated 9.11.1995 for combining the seniority units of all the four sections into one for determining the seniority of Sr.Clerks so as to ensure that they get the promotion to the higher grade quicker. But that representation was rejected by impugned order dated 7.12.1995 (Annexure-I page-8 to the OA). The applicants further contend in their rejoinder that the S.C.Railway employees Sangh which is a minor Union has accepted their demand whereas the S.C.Railway Mazdoor Union which is a major union has not accepted their demand. With their refusal the S.C.Railway Mazdoor Union has compelled the Railway Organization not to combine the seniority units. The applicants further add that the records in this connection may be called for to take a fair decision.

3. The respondents have filed a reply. In Annexure R-I to the reply the ^{intended} avenue for promotion chart for clerical staff on Electrical Department is ~~seen~~. It





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is seen from that that up to the level of Senior Clerk each unit has its own seniority i.e. Hyderabad Division has its own seniority list in the cadre of Jr.Clerk for promotion of Senior clerks. So also in the other 3 units. Once an employee is promoted as Sr.Clerk, then a combined seniority unit will be prepared for the promotion of Head Clerks and other higher cadres. The date of entry in the cadre of Sr.Clerk decides the inter-se seniority for all the units for further promotion. If the senior clerk of Hyderabad Division is promoted later to the post of Sr.Clerk then they will rank junior to those promoted earlier to them as Senior Clerk. The main contention of the applicant is that due to non availability of Sr.Clerk posts in the Electrical Division their promotion to the Senior Clerk is delayed and that reflects in lowering of their seniority in the integrated seniority list for the promotion of Head Clerk and above.

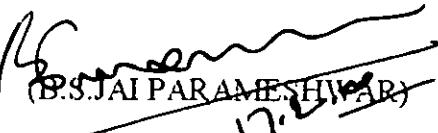
4. The respondents have stated in the reply that the avenue chart has been prepared in consultation with the organized labour Unions and with the approval of the competent authority. Any modification to the avenue chart is done basing on the suggestions given by the Associations. The Avenue Chart for clerical staff was decided after due deliberations and with the approval of the competent authority and it is settled for several years. There are no representations from the Clerical Staff of these 4 units as well as organizations for modification of avenue chart enclosed as Annexure-I.

5. The respondents further submit that a settled position of seniority cannot be changed at ~~these~~ late hours. They further submit that an employe cannot demand for promotion chance because employees of the other units are getting promotions earlier. It all depends on the availability of the vacancies in that department. The respondents submit that the OA is liable to be dismissed.

6. Even though the applicants submit that rejection of their case was the result of the rejection of their request by major Unions, we do not find any such attempt. The question of formation of seniority unit is a policy matter. IN such a policy matter the Court can interfere if there is malafide intentions on the part of

the respondents which are proved. The Respondents stated that the seniority position as such exists for long years. That being the case, the question of malafide attitude does not arise. Further, the applicants contend that the cadre of senior clerks are to be reviewed by combining the seniority of all the units right from the stage of junior clerk and on that basis their seniority as senior clerk should be decided, which enables them to become head clerks quicker. That means that their cadre should be combined cadre with others in all four units. That would mean that they may supercede some of the senior clerks in other offices. Hence such a request cannot be decided without hearing other affected employees. No such employee is available before us as private respondents. Further any review is to be done by this Tribunal for combining the seniority units, the view points of the other units affected by such combination of the units are to be heard. Even though counsel for the applicant submits that this being the policy matter, the employees of the other units need not be impleaded, we do not agree to this. When the promotional chances of other units is likely to be affected by combining the units how far such a policy decision can be interfered with without impleading other parties is a point to be considered. Hence it is very essential to hear other units also. As they are not available in this OA, we are not giving any decision in this connection. However, we feel that as the applicants are aggrieved by their delayed promotion to the post of Senior Clerk compared to the promotion of other 3 units, that point needs consideration by the Department and remedial action if any needs to be taken by them.

7. With the above observations, the Original Application is disposed of. No order as to costs.


(B.S. JAI PARAMESHWAR)

MEMBER (J)


(R. RANGARAJAN)

MEMBER (A)

Dated: 17th February, 2000.

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Dictated in Open court.