

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application No.021/95/2015**

**Reserved on: 10.10.2018**

**Order pronounced on: 23.10.2018**

Between:

H.C. Goud, S/o. H. Bheemalingappa,  
Aged 46 years, Occ: Office Superintendent,  
O/o. The Senior Divisional Mechanical Engineer (O&F),  
South Central Railway, Sanchalan Bhavan,  
Secunderabad Division, Secunderabad,  
R/o. H. No. 10-147/1, PVN Colony,  
Mirjalaguda, Malkajgiri, Hyderabad – 500 047.

...Applicant

**And**

1. Union of India, Rep. by  
The General Manager,  
South Central Railway, Rail Nilayam,  
Secunderabad.
2. The Chief Personnel Officer,  
South Central Railway, Rail Nilayam,  
Secunderabad.
3. The Divisional Railway Manager,  
South Central Railway, Sanchalan Bhavan,  
Secunderabad Division, Secunderabad.
4. The Senior Divisional Personnel Officer,  
South Central Railway, Sanchalan Bhavan,  
Secunderabad Division, Secunderabad.

...Respondents

Counsel for the Applicant	...	Mr. KRKV Prasad
Counsel for the Respondents	...	Mrs.A.P. Lakshmi, SC for Railways

**CORAM:**

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
<i>Hon'ble Mr. Swarup Kumar Mishra</i>	...	<i>Member (Judl.)</i>

**ORDER**

**{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}**

The OA is filed for not providing (1) alternative appointment of the post of Office Superintendent Grade-I/Chief Office Supdt on being medically

invalidated (2) issuing posting orders with prospective effect and (3) wrongly fixing the seniority of the applicant in the cadre of Office Supdt. Grade - II resulting in the applicants transfer from Secunderabad to Ramagundem.

2. Brief facts of the case are that when the applicant was working as Loco Pilot (Goods) he was medically invalidated on 24.11.2004 and initially given an alternative appointment as Office Superintendent Grade II on 3.3.2005 and posted in the scale of pay of Rs 5500-9000 in crew controller's office at Bhadrachalam. On review he was offered the scale of Rs 6500-10500 vide Ir dt 17.4.2006. As per request, the applicant was posted to Secunderabad on 26.6.2014 from Bhadrachalam though he represented for the same in 2005 on grounds of suffering from Psychiatric bipolar additive disorder. Despite the 2<sup>nd</sup> respondent corresponding with the 4<sup>th</sup> respondent for creation of a supernumerary post in PB-2 of Rs 9300-34800 with GP of Rs 4600, yet the applicant was shown in the seniority list of Office Supdt. with grade pay of Rs 4200 as on 1.9.2014 vide impugned Ir dt 22.12.2014 albeit similarly placed employees were given revised orders as office Supdt. Grade -I and shown their names in merged cadre of Office Supdt. Grade -I and Chief Office Supdt. in grade pay of Rs 4600. The 2<sup>nd</sup> respondent promoted the applicant as Chief Office Supdt. and posted him to Ramagundem vide impugned proceedings dt 12.1.2015. The applicant feels aggrieved that instead of placing him in the grade of office Supdt. I from the date of medical invalidation and promoting him with a lot of delay as Chief Office Supdt. thereby showing him junior and adding insult to injury by transferring him out of Secunderabad on promotion as Chief Office Supdt. although he came to Secunderabad only a few months back, has led the applicant to file the OA.

3. The applicant's contention is that immediately after medical invalidation he was supposed to have been offered the post of Office Supdt. Grade I but the respondents did not. A medically invalidated person being posted to a remote place like Bhadrachalam is harsh and that even after represented in 2005 to post him to Secunderabad on serious health grounds it was done only in 2014. Persons similarly placed were posted as Office Supdt. Grade I whenever they were medically invalidated but not doing so for him is discriminative. Albeit he was representing several times for elevating him to Office Supdt. Grade I from the date due, the respondents without resolving his grievance promoting him to Chief Supdt. and posting him to Ramagundem is unfair and irregular. He had to perforce approach the tribunal for seeking relief. The applicant also confirms that his juniors namely Sri Ch Prabhakar, Ms K. Mangathai and Ms R.N.Renuka have been accommodated in Secunderabad and Hyderabad divisions respectively. Ms Mangathai after availing the promotion and transfer to Secunderabad she is now working on deputation at Delhi in Central organisation for Modernisation of Workshops. For another 9 employees vigilance clearance is being processed to consider them for Chief Office Supdt. and once they are posted in Hyderabad or Secunderabad divisions the respondents may not be able to accommodate him, as requested, in Secunderabad. Applicant claims that as per rule he is senior and that since he is suffering from a health issue his case has to be considered sympathetically and in accordance with the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

4. The respondents confirm that he was medically invalidated and he was offered alternative grade of OS –II on 3.3.2005. On review as per orders of CPO/SC he was placed in the post of OS –I in the scale of Rs.6,500-10,500

on 17.4.2006. While referring to the correspondence between the 2<sup>nd</sup> respondent and 4<sup>th</sup> respondent the respondents indicate that the applicant was given promotion as Chief Office Supdt by the 2<sup>nd</sup> respondent and based on the same the 4<sup>th</sup> respondent posted him to Ramgundem as Chief Office Supdt. Aggrieved about the same the applicant moved this tribunal which ordered the respondents to dispose of the representation of the applicant with a reasoned order. The applicant's contention that similarly placed persons were extended the benefit of placing them in Office Supdt. Grade I without considering his case, cannot be commented upon unless specific details are furnished. The applicant has taken the promotion and thereafter approached the tribunal against the transfer. The respondents claim that the OA lacks merits and therefore should be dismissed.

5. The facts of the case indicate that employees who are medically invalidated are to be accommodated in alternate posts either in available vacancies or by creating supernumerary posts. In fact, review was ordered of medically decategorised cases as per CPO/SC instructions circulated vide lr dt 19.8.2005 and the applicant was offered the post of OS- Grade- I in the scale Rs 6500-10500 in the mechanical dept as per lr dt 17.4.2006 of DRM /(P) SC. Another similarly placed employee Sri Laxman Babu, while working as goods driver, on medical decategorisation was given OS- Grade-I in PB-2 of Rs 9300-34,800 with grade pay of Rs 4600 from the date of medical decategorisation ie 28.11.03 vide lr P 535/TP/OS-I/Vol IV dt 8.5.2009 of the respondents. Later the post of OS- Grade- I was equated with the Scale of Chief Office Supdt. in PB-2 of Rs.9300-34800 with grade pay of Rs 4600 due to cadre restructuring as per records submitted. Similarly Mr T. Srinivas Rao, ex Goods driver was extended the same benefit vide lr no L.O no 15 dt 10.10. 2006 by DRM, Secunderabad. The letter of the Chief Personnel Officer bearing the number P (R) 535/V dt

19.8.2005 makes it clear that the Goods driver on medical invalidation have to be offered the scale of pay of Rs 6500-10,400 which is equal to PB-2 of 9300-34,800 with grade pay of Rs 4600. Moreover, as per records produced Juniors like Ch. Prabhakar vide posting order dt 21.11.2016 of L.O No.739 and Ms K.Mangathai, Ms R.N Renuka vide office order 135/2017 have been accommodated in Secunderabad /Hyderabad divisions. Thus it is clear that the applicant as per the rules/ orders quoted and discussed above has to be adjusted against the OS- Grade- I/ Chief Office Supdt. from the date of offering alternate post on 3.3.2005 due to medical decategorisation and given the scale/PB due to him. The applicant has been discriminated in comparison with similarly placed persons in regard to offering Grade I post on medical invalidation and in terms of posting. Besides, his health condition warranted early action when compared with others in terms of posting. It was not processed as was expected keeping in view the provisions of Persons with Disabilities Act, 1995. Therefore based on the rules quoted and the review done by the respondents themselves the OA succeeds.

6. In view of the same the OA is allowed and the respondents are directed to consider:

- i) Posting the applicant as Office Supdt. Grade –I/Chief Office Supdt in terms of Memorandum dt 17.4.2006 and notionally fix the pay of the applicant in scale of Rs 6500-10500 which is equivalent to PB-2 of Rs 9300-34800 with GP of Rs 4600 w.e.f 3.3.2005.
- ii) Fix the seniority of the applicant from 8.9.2003 i.e. date of promotion as Goods Driver in OS-I /Chief Office Supdt.

- iii) Working out the increments due, pay and allowances, etc. due to notionally fixing the pay as at para (i) above and refix the pay of the applicant from the date he has been working as Office Superintendent Gr. I/ Chief Office Superintendent. No back wages need to be drawn from the date due i.e. 03.03.2005 till he joined as Office Superintendent Gr. I.
- iv) Posting the official at Secunderabad as Chief Office Supdt. given his physical disability keeping in view the provisions of the Persons with Disabilities Act 1995 and also in view of the fact that many juniors have been accommodated at Secunderabad.
- v) Time allowed to implement the order is 3 months from the date of receipt of this order.

7. In the circumstances stated, there shall be no order to costs.

**(SWARUP KUMAR MISHRA)**  
**MEMBER (JUDL.)**

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

Dated, the 23rd day of October, 2018

*evr*