

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

Original Application Nos.429 of 2013

Reserved on: 29.10.2018

Order pronounced on: 30.10.2018

Between:

M.V. Ratna Rao, S/o. Subba Rao,
Aged about 57 years, Occ: Retd. Asst. Station Master,
Vijayawada Division, S.C. Railway,
R/o. H. NO. 42-7-87, Kothapeta,
Opp. to Rowthu Kalyana Mandapam Street, Rajamundry.

...Applicant

And

1. Union of India, Ministry of Railways,
Rep. by its General Manager,
South Central Railway, Rail Nilayam, III Floor,
Secunderabad – 500 071.
2. The Chief Personnel officer,
South Central Railway, Rail Nilayam, III Floor,
Secunderabad – 500 071.
3. The Senior Divisional Personnel Officer,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, I Floor, Secunderabad – 500 071.
4. The Senior Divisional Operations Manager,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, I Floor, Secunderabad – 500 071.

...Respondents

Counsel for the Applicant ... Mrs.S. Anuradha

Counsel for the Respondents ... Mr. V. Vinod Kumar, SC for Railways

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

Hon'ble Mr. Swarup Kumar Mishra ... Member (Judl.)

ORDER

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

The OA has been filed by the applicant for not granting promotion to the post of Group B by the respondents.

2. The brief facts of the case are that the applicant joined the respondents organisation on 16.6.1983 and promoted as Asst Station Master on 3.12.1988. The respondents vide notification dt 17.4.2001 called for applications to empanel candidates to the Group B Cadre posts of Asst. Operations Manager/ Asst Traffic Engineer. The applicant applied for the same but was not allowed on grounds of discipline. This Tribunal set aside the penalty in OA 1437 /2001 on 10.11.2004. As per the applicant one Mr K. Jawahar Babu who was similarly placed was promoted as Dy. Station Supdt. but he was discriminated. Therefore the present OA has been filed.

3. The contention of the applicant is that this Tribunal has considered the juniors to the applicant for promotion to Group B post. There was no disciplinary case pending against him as on the date of notification ie 17.4.2001 since this Tribunal has set aside the penalty vide OA 1437/2001 on 10.11.2004. A similarly placed employee Sri K.Jawahar Babu ASM was promoted but his case was rejected. As per Railway Board orders employees facing disciplinary action should be considered for selection but the result should be kept in sealed cover till the disciplinary proceedings are finalised. He was compulsorily retired from service on 31.5.2005 in another disciplinary case and therefore had no recourse open to him but to approach the Tribunal for relief by the present O.A. The applicant argues that the respondents were unfair in not considering his candidature for Group B post and therefore the OA be allowed and justice be done.

4. The respondents claim that the OA is barred by limitation since the cause of action arose in 2001 and for wrongly impleading the authorities of Secunderabad instead of those from Vijayawada division. The respondents state that he was recruited as Pro-Asst Station Master on 16.6.1983, transferred to

Vijayawada division on request and was subsequently retired from service compulsorily based on disciplinary grounds dt 31.5.2005. A notification dt 4.4.2001 was issued by the Head quarters to empanel candidates for Group B posts of Asst. Operation Manager/Asst Traffic Manager. The selection was based on merit and not on seniority as one has to qualify in the written test, viva –voce and in the medical exam to get selected. All the 24 applications received by the division were forwarded to the Head quarters. The applicant did not submit any application. Referring to the case of Sri K. Jawahar Babu the Respondents claim that it is not a relevant comparison as Mr Jawahar Babu was promoted to a non selection post based on seniority within Group C Cadre whereas the applicant has applied for a selection post where candidates have to apply voluntarily and it entails promotion from Group C to Group B through an elaborate selection basis. Therefore the claim of the applicant is not as per rules and hence has to be rejected.

5. Heard the counsel and perused the documents on record.
6. The respondents did notify for selection to the post of Group B vide notification dt 4.4.2001. Applications were received and processed. The list of eligible and ineligible candidates after due processing was also published where in the applicant's name did not figure in either of the lists. The reason being that the applicant did not apply for the selection. The applicant also did not produce any proof claiming that he has applied nor did he represent to the respondents, if at all he has applied, that his candidature was not considered. Admittedly the Tribunal has set aside the penalty imposed on him, yet the applicant without applying for the post and going through the process of written exam, viva voce etc, has no right to make the plea to consider him for promotion to Group B

post. Comparison with Sri K. Jawahar Babu is not relevant as has been well explained by the respondents in paras supra. Therefore there is no discrimination. The applicant also did not spell out as to who were the juniors who have been promoted overlooking his claim. Moreover, it is evident that the applicant has filed the OA after 12 years of the cause of action and impleaded wrong parties.

7. Thus both on merits and technical grounds the OA fails and hence is dismissed with no order to costs.

(SWARUP KUMAR MISHRA)
MEMBER (JUDL.)

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

Dated, the 30th day of October, 2018

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