

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

Original Application Nos.433 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 is filed by the applicant for not considering his case for promotion to the post of Station Master (S.M) on par with his junior Sri K.V.Ramana Murthy.

2. The brief facts of the case are that the applicant was appointed in the respondents organisation on 16.6.1983 and promoted as Asst. Station Master on 3.12.1988. In the seniority list the applicant figured at Sl.10 and that Sri K.V.Ramana Murthy who figures at Sl.13 was promoted on 29.4.2002 as Station Master though he is junior. This Tribunal has set aside the penalty imposed on him vide OA 1437/2001 on 10.11.2004. Thus there was no disciplinary case pending against him on 29.4.2002 to reject his claim for being promoted as Station Master. A similarly placed employee Mr. K.Jawahar Babu whose punishment was also set aside by this Tribunal was favoured with a promotion whereas he was not considered, thereby he was discriminated. He was compulsorily retired from service on 31.5.2005 and therefore there was no recourse open to him but to approach the Tribunal for relief by the present O.A.

3. The contentions of the applicant are as follows:

1. Juniors were considered to the post of S.M on notional basis.
2. There was no disciplinary case pending against him as on 22.3.2002 when the promotion to the said post was considered.
3. A similarly placed employee Mr K.Jawahar Babu whose punishment was set aside by this Tribunal in OA 469/2004 was promoted as Dy. SS whereas such treatment was not meted out to him though this Tribunal has set aside the penalty imposed on him, vide order dt.10.11.2004 in OA 1437/2001.
4. Subsequent disciplinary proceedings should not impair his promotional opportunities that arose prior to the initiation of disciplinary proceedings.

4. The Respondents claim that the O.A has to be dismissed on the following grounds:

1. The O.A has been filed after 10 years of the cause of action and hence it is barred by limitation.
2. The applicant was undergoing disciplinary action or punishments continuously from 1999 till 2003 and was finally imposed the penalty of compulsory retirement in 2005.
3. The junior Mr K.V Ramana Murthy was promoted because he was not undergoing any penalty when he was considered for promotion unlike the applicant.
4. In regard to Sri K. Jowahar Babu, his punishment was set aside by this Tribunal and hence he was considered for promotion.
5. Heard the counsel and perused the documents on record.
6. The facts of the case does reveal that the applicant was undergoing series of punishments. The Respondents have detailed 6 punishments commencing from 2001 till it culminated in compulsory retirement in 2005. The Respondents did consider his promotion along with others but kept it in a sealed cover as the disciplinary proceedings were pending against him. The Juniors Mr K.Ramana Murthy and Mr K. Jowahar Babu were free from any penalties when they were considered for promotion. However this was not the case in respect of the applicant since he was undergoing penalties as was indicated at para 3 (c) of the reply statement. Hence there was no discrimination against the applicant in considering him for promotion as alleged by the applicant. Further it is seen that the OA was filed after 10 years of the cause of action inviting ineligibility under limitation.

7. Thus both on technical grounds and on merit there is no scope for this Tribunal to interfere. Hence the OA fails. Therefore it 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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