

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/021/457/2013

Dated: 20/06/2019

Between

P. Mahesh, S/o. P. Veera chari,
Aged 44 years, Occ: Jr. Engineer Grade-II,
O/o. The Senior Divisional Electrical
Engineer (TRD),
South Central Railway,
Secunderabad.

... Applicant
AND

1. Union of India rep. by
The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Divisional Railway Manager,
South Central Railway,
Sanchalan Bhavan,
Secunderabad Division,
Secunderabad.
3. The Senior Divisional Electrical Engineer (TRD),
South Central Railway,
Vijayawada Division,
Vijayawada.
4. The Senior Divisional Personnel Officer,
South Central Railway,
Vijayawada Division,
Vijayawada.

... Respondents

Counsel for the Applicant : Mr. K.R.K.V. Prasad
Counsel for the Respondents : Mr. N. Srinatha Rao,
SC for Railways

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant joined the service of the South Central Railway as Junior Engineer Gr.II (JE-II), by way of direct recruitment. He was promoted to the post of Junior Engineer Gr.I (JE-I). Through an order dated 18.12.2002, Disciplinary Authority imposed the punishment of reduction to the lower grade, to be in operation for 3 years. Thereby, the applicant was reverted to the post of JE-II.

2. The post of JE-II is *Divisional*, whereas the JE-I is *Zonal*. The applicant made a request on 15.7.2004 to transfer him from Vijayawada Division to Secunderabad Division as JE-II. He has also furnished an undertaking to the effect that he would take the lowest seniority in the Secunderabad Division, in the post of JE-II. The request was acceded to and he was transferred.

3. The respondents have published the provisional seniority list on 17.3.2010 in the grade of JE-II. The name of the applicant was shown at Sl.No.10 in the said list. The contention of the applicant is that, on

completion of 3 years from 18.12.2002, he was entitled to be restored to the post of JE-I and despite that, the respondents have shown him as JE-II in the provisional seniority list dated 17.3.2010. It is also contended that the merger of posts has taken place, on the basis of the recommendation of the VI Central Pay Commission, and that benefit was also denied to him.

4. The respondents filed counter affidavit opposing the O.A. It is stated that the applicant became the junior most JE-II, in Secunderabad Division on his request and he has to wait for his turn for promotion to JE-I or equivalent post. Reliance is placed upon the Circular dated 31.3.1971.

5. We heard Sri K.R.K.V. Prasad, learned counsel for the applicant and Sri N. Srinatha Rao, learned Standing Counsel for the respondents.

6. By December 2002, the applicant was holding the post of JE-I. He was reverted to the post of JE-II through an order dated 18.12.2002. The punishment was, to remain in post for 3 years. It has already been mentioned that the post of JE-II is *Divisional*, whereas JE-I is *Zonal*.

7. Had the applicant remained in the Division, where he was earlier appointed i.e. Vijayawada Division, after reversion also, he would have become JE-I, on the expiry of the punishment period. However, he has chosen to be transferred to Secunderabad Division and, therefore, he became the junior most JE-II in that Division. Though he was entitled to be restored the position of JE-I on completion of 3 years, that was not possible on

account of his working in Secunderabad. Conversely, if he is to be restored to JE-I on completion of 3 years, he has to be shown on the rolls of Vijayawada Division. Restoration to JE-I was not possible as long as the applicant remained in Secunderabad Division. Unfortunately, the applicant did not take any corrective steps in this behalf, and if at all he is shown as JE-II, even in the year 2002, he alone is responsible for that.

8. As long as the applicant remains on the rolls of the Secunderabad Division as JE-II, there is no way, the preparation of provisional seniority list and the consequential proceedings, can be found fault with. If the applicant makes a representation to re-transfer him to Vijayawada Division as JE-II, the necessary exercise in this behalf, needs to be undertaken, mostly on notional basis. If the request is acceded to, his status as JE-I needs to be restored, on completion of 3 years from 18.12.2002, and pay scale also has to be revised. In case there is a merger of posts, the applicant needs to be assigned the proper place. However, he would be entitled to the monetary benefits, only from the date on which such orders are passed, and not with retrospective effect.

9. We, therefore, dispose of the O.A., leaving it open to the applicant, to make a representation for transferring him as JE-II to the Vijayawada Division, and the respondents, in turn, shall pass orders thereon, within a period of four weeks from the date of receipt of the representation. Depending on the nature of orders that may be passed in that behalf, the applicant shall be extended the benefit of restoration to the post of JE-I and

other such benefits, within a period of two months thereafter. There shall be no order as to costs.

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

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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