

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

WRIT PETITION NOS: 27413 OF 2015 AND 10105 OF 2017

W.P.NO: 27413 OF 2015

Between:

E. Sukumaran, S/o E.Narayanan, aged 61 years, Occ Retd. Deputy General Manager (Law), South Central Railway, Secunderabad, R/o H.No.10-3-97/203, Kranthi Venkateswara Apts., Teachers Colony, E.Marredpally, Secunderabad-500 026.

...PETITIONER

AND

1. Union of India, rep. by the The Chairman, Ministry of Railways, Railway Board, Rail Bhavan, New Delhi.
2. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
3. The Registrar, The Central Administrative Tribunal, Hyderabad Bench, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Certiorari by calling for the order dated 26.03.2015 in O.A.No.695 of 2014 on the file of the Central Administrative Tribunal, Hyderabad and declare the inaction of the respondents in the matter of holding DPC for regular promotion to the Junior Administrative Grade in Indian Railway Personnel Service (IRPS) resulting in the petitioner retiring from service without getting promotion to Junior Administrative Grade on regular basis despite his name being found suitable for such promotion by the DPC and vacancies being available - as illegal, arbitrary and unjust and is in violation of Articles 14, 16 and 21 of the Constitution and direct the respondents to treat the petitioner as promoted to Junior Administrative Grade on regular basis w.e.f. 09.04.2010 on par with the juniors to the petitioner and grant all

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consequential benefits including pay fixation and payment of salary with all other allowances.

I.A. NO: 1 OF 2015(WPMP. NO: 35590 OF 2015)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant expeditious hearing of the Writ Petition and pass.

Counsel for the Petitioner: SRI K.R.K.V.PRASAD

Counsel for the Respondents: M/s. L.PRANATHI REDDY, Sr SC FOR CENTRAL GOVT

W.P.NO: 10105 OF 2017

Between:

1. Union of India, Rep. by the Chairman, Railway Board, Rail Bhavan, M/o. Railways, New Delhi.
2. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.

...PETITIONERS

AND

1. E. Sukumaran, S/o. Late E. Narayanan, Aged 61 years, Retd, Deputy General Manager, (Law), South Central Railway, Secunderabad, R/o. H.No. 10-3-97/203, Kranthi Venkateswara Apts., Teachers Colony, E. Marredpally, Secunderabad-26.
2. The Registrar, Central Administrative Tribunal, Hyderabad Bench. Opp Assembly, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ order or direction more particularly a Writ of Certiorari by calling for the records in O.A.No. 1234 of 2012 from the file of the Central Administrative Tribunal Hyderabad Bench in quash the order dated-19.09.2016 by declaring the same as arbitrary, illegal and unjust contrary to law without the authority of law.

I.A. NO: 1 OF 2017(WPMP. NO: 12523 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

suspend the operation and effect of the order passed in O.A.No.1234 of 2012 dated: 19.09.2016 on the file of the 2nd Respondent Tribunal, pending disposal of the above Writ Petition.

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of suspension of CP.No. 97/2017 in O.A.No.1234/2012 order dated 19.09.2016 pending disposal of the Writ Petition and WPMP for suspension of the said order.

Counsel for the Petitioners: M/s. L.PRANATHI REDDY, Sr SC FOR CENTRAL GOVT

Counsel for the Respondent No.1: SRI K.R.K.V.PRASAD

Counsel for the Respondent No.2: ---

The Court made the following: COMMON ORDER

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

WRIT PETITION Nos.27413 OF 2015 AND 10105 OF 2017

COMMON ORDER: (Per Hon'ble Sri Justice Abhinand Kumar Shavili)

Since the issue involved and the parties in both these Writ Petitions are one and the same, both these Writ Petitions are being heard and disposed of by way of this common order.

2. W.P.No.27413 of 2015 is filed aggrieved by the order, dated 26.03.2015, passed in O.A.No.695 of 2012 by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal') and W.P.No.10105 of 2017 is filed aggrieved by the order, dated 19.09.2016, passed in O.A.No.1234 of 2012 by the Tribunal.

3. Heard Ms. L. Pranathi Reddy, learned Senior Standing Counsel for Central Government, appearing for the petitioners in W.P.No.10105 of 2017 and respondents in W.P.No.27413 of 2015 and Sri K.R.K.V. Prasad, learned counsel for the petitioner in W.P.No.27413 of 2015 and respondent No.1 in W.P.No.10105 of 2017.

4. For the sake of convenience, the facts and the submissions made in W.P.No.10105 of 2017 are hereunder discussed.

5. It is the case of the petitioners that respondent No.1 was appointed in Group-C service in South Central Railways on 05.11.1973 and he has earned various promotions. While he was working as Senior Law Officer, he was promoted on *ad hoc* basis as Junior Administrative Grade on 14.08.2008. Thereafter, the case of respondent No.1 was considered for regular promotion to the post of Junior Administrative Grade by the Departmental Promotion Committee (DPC) on 02.11.2011 and while promotion orders were about to be issued, respondent No.1 has retired from service on attaining the age of superannuation on 30.11.2011. The regular promotion orders in respect of other candidates were given on 15.12.2011.

6. As respondent No.1 has retired from service on 30.11.2011, the petitioners could not give promotion orders to respondent No.1 and therefore, respondent No.1 has approached the Tribunal by filing O.A.No.1234 of 2012 contending that his pay should be fixed as per Rule 1313 of the India Railway Establishment Code and that the

ad hoc promotion pay scale should be taken into account while fixing his pension. Respondent No.1 has also approached the Tribunal by filing O.A.No.695 of 2012 contending that since DPC has cleared his name for promotion to the post of Junior Administrative Grade, the benefit of promotion to Junior Administrative Grade be extended to him.

7. The Tribunal, *vide* order, dated 19.09.2016, has allowed O.A.No.1234 of 2012 filed by respondent No.1 seeking fixation of his pension in the *ad hoc* promotion grade of Junior Administrative Grade and *vide* order, dated 26.03.2015, has dismissed O.A.No.695 of 2012 filed by respondent No.1 seeking notional promotion as Junior Administrative Grade.

8. Learned Senior Standing Counsel appearing for the petitioners had contended that the Tribunal erred in allowing O.A.No.1234 of 2012 in favour of respondent No.1. The question of refixing the pension of respondent No.1 in the *ad hoc* promoted post would not arise. Therefore, appropriate orders be passed in the Writ Petition by setting aside the order, dated 19.09.2016, passed in O.A.No.1234 of 2012 by the Tribunal.

9. On the other hand, learned counsel for respondent No.1, who is the petitioner in W.P.No.27413 of 2015, had contended that since the DPC has cleared the name of respondent No.1 for promotion, while respondent No.1 was in service, either the benefit of promotion should be extended or atleast the notional benefits of promoted post should be extended to respondent No.1. Learned counsel further contended that the Tribunal erred in dismissing O.A.No.695 of 2012 preferred by respondent No.1. Therefore, appropriate orders be passed in W.P.No.27413 of 2015 by setting aside the order, dated 26.03.2015, passed in O.A.No.695 of 2012 by the Tribunal and further, direct the petitioners to extend the promotional benefits to respondent No.1, as admittedly, the name of respondent No.1 was cleared by the DPC on 02.11.2011.

10. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the considered view that, admittedly, the name of respondent No.1 was cleared by the DPC on 02.11.2011 i.e. while respondent No.1 was in service. Therefore, the Tribunal has rightly allowed O.A.No.1234 of 2012 filed by respondent No.1 by directing the petitioners to fix the pension of

respondent No.1 by duly taking into account the pay scale of respondent No.1, while he was working as Junior Administrative Grade on *ad hoc* basis. As the Tribunal had allowed O.A.No.1234 of 2012, the relief sought by respondent No.1 in O.A.No.695 of 2012 was also virtually granted by the Tribunal. The effect of promotion has already been worked out in favour of respondent No.1. Therefore, this Court is not inclined to interfere with the impugned orders, dated 19.09.2016 and 26.03.2015.

11. Accordingly, both the Writ Petitions are dismissed. There shall be no order as to costs.

Miscellaneous Applications, if any, pending in these Writ Petitions, shall stand closed.

//TRUE COPY//

SD/-N. SRIHARI
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. One CC to SRI K.R.K.V.PRASAD, Advocate [OPUC]
2. One CC to M/s. L.PRANATHI REDDY, Sr SC FOR CENTRAL GOVT [OPUC]
3. Two CD Copies

PSK.
GJP



HIGH COURT

DATED:18/11/2024

COMMON ORDER

WP.Nos.27413 of 2015 AND 10105 OF 2017



DISMISSING THE WRIT PETITIONS
WITHOUT COSTS

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