

The General Manager, South Central Railways and Another

Vs

T. Venkata Rao and Others

Civil Appeal No. 510 of 1974

(A. Alagiriswami, P. K. Goswami, N. L. Untwalia, J.)

18.08.1975

JUDGMENT

UNTWALIA, J. -

1. This is an appeal by certificate granted by the Andhra Pradesh High Court. The facts of this case are almost identical to those in the case of General Manager, South Central Railway, Secunderabad and another, etc. v. A. V. R. Siddhanti ((1974) 3 SCR 207 : (1974) 4 SCC 335 : 1974 SCC (L & S) 290). All the 33 respondents in this case at the relevant time, as in the other case, were the employees of the Grain Shop Establishment of the railway administration - in this case the Southern Railway. After the closing of the Grain Shop Establishment, all the respondents were allotted to South Central Railway with the formation of that zone. They belonged to either one or the other of the three categories of the different sources from which the staff for the temporary grain shop complex was drawn. In the case of Central Railway v. Siddhanti (supra) the employees had prayed under Article 226 of the Constitution in the High Court for the issue of a writ of mandamus directing the Railway authorities to fix the inter seniority of the writ petitioners as per original proceedings, dated October 16, 1952 of the Railway Board and not to give effect to the subsequent proceedings, dated November 2, 1957 and January 13, 1961 of the Board issued by way of modifications and clarifications of its earlier proceedings of 1952. A learned single Judge of the Andhra Pradesh High Court in Siddhanti's case had allowed the writ petition. The Letters Patent Appeal was dismissed by a Division Bench. The decision of the High Court was affirmed by this Court with slight modification and it was held [SCC p. 346 : SCC (L & S) p. 301, para 31] that the discrimination envisaged in the impugned directions, dated November 2, 1957 and January 13, 1961, excepting in so far as they pertain to personnel of category (i) is arbitrary and violative of Articles 14 and 16 of the Constitution.

2. In the present case also the learned single Judge allowed the writ application and following the Bench decision of the High Court in Siddhanti's case (supra) the writ appeal was dismissed in this case also.

3. We do not consider it necessary to narrate the facts of this case except in regard to a few respondents, as by and large, the facts are also identical to those in Siddhanti's case. The judgment of the High Court is affirmed except to the extent indicated in the judgment of this Court in Siddhanti's case and subject to the clarifications made below.

4. With respect to the case of Shri K. S. Venkataraman respondent No. 10 who was petitioner No. 10 in the writ petition, it was pointed out before the learned single Judge on behalf of the appellant that he was originally appointed as a peon in regular department on 26-6-1942 and was confirmed as

such. He was then transferred to the Grain Shop Department on 13-10-1944 on promotion as a clerk. It was also pointed out that after reverting from the Grain Shop Department the respondents was working in his substantive post of peon.

5. As respects to the cases of respondents Nos. 4, 5 and 33 who were respectively petitioners 4, 5 and 34 in the writ petition the appellants case was that they had been drafted into other cadres. They were originally given their seniority in the cadre of commercial clerks as it was given to the other Grain Shop clerks. But later they volunteered for promotion as assistant station masters in the years 1955 and 1956 earlier to the receipt of the revised instructions of the Railway Board in the years 1957 and 1961. They were confirmed as assistant station masters and thereupon they ceased to have any lien in the cadre of commercial clerks. As regards respondent No. 27 who was Petitioner No. 28 in the writ petition, certain other facts were pleaded showing that he had also gone to a different cadre. The learned single Judge did not make any clarification or distinction in the application of the instructions issued in the year 1952 in cases or respondents 10, 4, 5, 27 and 33. Argument out forward by learned Counsel for the appellant is that determination of seniority on the basis of the decision of this Court in Siddhanti's case (supra) would be only applicable in the cadre of clerks and not in by other cadre lower or higher. The grievance is justified to some extent. Primarily the instructions issued in the year 1952 which were held to govern the cases of the employees like the respondents were for determination of seniority in the cadre of clerks. It was not meant to override any other instruction, rule or directions concerning the determination of seniority in any other cadre. For instance if a person had become a confirmed assistant station master earlier than any of the respondents 4, 5 and 34 the latter could not count his entire period of working in the clerk's post for getting seniority over the former. If, however, the seniority, determined on the basis of the decision of this Court in Siddhanti's case was to be reflected in determination of the seniority in any other cadre to which any of the respondents might have gone, then the seniority in the cadre of the clerk will have to be determined on the principles laid down in Siddhanti's case.

6. We accordingly dismiss this appeal but subject to the clarifications made above. There will be no order as to costs.

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