

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1046/2001

This the 9th day of April, 2002

HON'BLE SH. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Shri Zamir Hussain
Head Clerk under Loco Foreman,
Saharanpur
Present working as Assistant Teacher,
ATP Railway Primary School,
Khan Alam Pur, Saharanpur
R/o House No. 265-C, Railway Colony,
Saharanpur.
(By Advocate: Sh. B.S. Mainee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Ambala.
(By Advocate: Sh. Rajinder Khatter)

ORDER

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA whereby he impugns order dated 25.1.2001 (Annexure A-1) vide which his pay has been refixed from the date of his regularisation to the post of Assistant Teacher. Applicant also assails order ^{dated 19.3.2001} (Annexure A-2) whereby his representation regarding selection for the post of OS-11 (Mech.) Grade Rs.5500-9000 has been rejected on the ground that the applicant had been regularised as Assistant Teacher in the grade of Rs.1200-2040 vide letter No.220-E/1208/Sub.Apptt./Eii dated 11/16.3.94 and absorbed as Assistant Teacher.

2. The facts as alleged in brief are that the applicant was initially appointed as Clerk in the grade of Rs.1200-2040 and was posted at Ambala on 15.3.88. Applicant claims that while

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he was working as Sr. Clerk, he was directed to work as Assistant Teacher in the same scale of Rs.1200-2040 purely on ad hoc basis vide notice dated 17.4.91 vide Annexure A-3. In pursuance of the same, applicant had joined as Assistant Teacher in Khan Alam Pur. However, he was promoted as Head Clerk in the parent brach of Mechanical unit wherein he continues. He also claims that he had requested the respondents to post him back as Head Clerk. Applicant also claims that his name was also included in the seniority list of Head Clerks in the scale of Rs.1400-2300. However, the applicant continued as Assistant Teacher and was not sent back to his parent branch although his pay has been charged in the grade of Rs.1400-2300.

3. It is further submitted that in the year 1994 Resp. No.2 initiated his selection for the post of Office Superintendent Grade-11 and his name also appeared in the seniority list at Sl. No.22 amongst the eligible candidates but the said selection was cancelled. But in the year 1996 again his name was omitted in the list. Subsequently, his name was also found in the eligibility list for the post of Office Superintendent and the applicant appeared in the selection and his name also appeared in the qualified candidates at Sl. No.19. Subsequently, at the time of final list his name was not included, so the applicant claims that he is entitled to be considered for the post of Office Superintendent in the grade of Rs.5500-9000. Thus, the applicant claims that he being a regular employee of Mechanical Branch is entitled to be considered for the post of Office Superintendent.

4. As against this, the respondent who are contesting the OA, submitted that the department had invited applications from amongst the clerks to fill up the post of Assistant Teacher in

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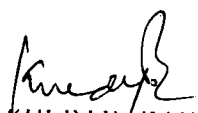
the grade of Rs.1200-2040 on ad hoc basis. The applicant gave his option and gave his application that since he fulfilled the terms and conditions as laid down in the notification dated 18.1.91. The applicant was approved for ad hoc arrangement by the competent authority by letter dated 24.4.91 for which viva voce test have been conducted on 19.6.91 vide Annexure R-11. Applicant having been found suitable for the post of Assistant Teacher was so appointed. After that screening was conducted for regularisation as Assistant Teacher on 1.12.94 vide Annexure R-5 wherein it was specifically stated that if a candidate does not want to appear in the selection for the post of Assistant Teacher he must send his unconditional written refusal.


5. It is further submitted that another similarly situated candidate Sh. Vinay Kumar has sent his written refusal but the applicant did not send his refusal, hence, the applicant was considered and regularised as Assistant Teacher in the pay scale of Rs.1200-2040 vide letter dated 17.6.94, a copy of which is at Annexure R-4. After regularisation of the applicant as Assistant Teacher, his lien has been terminated from his parent (Mechanical) cadre and as such the question for repatriation of the applicant does not arise. In the circumstances, it is found later on that the name of the applicant was shown in two seniority lists, i.e., of Mechanical Department as well as Assistant Teacher. But after scrutiny of the record, the record was corrected and Annexure A-1 and A-2 was issued. Thus, it is submitted. OA deserves to be rejected.

6. We have heard the learned counsel for the parties and have gone through the records.

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7. The only question which requires adjudication is whether the applicant continues to be Head Clerk or is a substantive Assistant Teacher. Applicant states that once he has been working as Assistant Teacher w.e.f. June, 1994, ~~his~~ his pay cannot be reduced. Learned counsel for the respondents has referred various documents placed on record which show that the applicant was offered ad hoc appointment as Assistant School Teacher vide Annexure R-1. Respondents also referred to a letter of another applicant, who had refused to participate in the selection for Assistant Teacher who was similarly placed and now is working as Clerk. Annexure R-6 is another letter vide which the applicant had been regularised as Assistant Teacher. The department has also submitted the personal file of the applicant, according to which vide letter dated 17.6.94, the applicant had been regularised as Assistant Teacher by the Railway department. So on going through the record we find that since the applicant had been regularised as Assistant Teacher in the month of June 1994, ~~his~~ his claim that he continued to be in the cadre of Head Clerk in the Mechanical Branch has no force, ^{and} ~~his~~ his claim for further promotion as Office Superintendent, ^{also} has no force and the OA has no merits. Accordingly OA is dismissed. No order as to costs.


 (KULDIP/SINGH)
 Member (J)


 (S. R. ADIGE)
 Vice Chairman (A)

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