

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(28)

O.A. NO. 736/2001

This the 3rd day of July, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Pankaj Misra S/O Neelkanth Misra,
R/O RZ/25, G.No.8, Phaladpur,
New Delhi-110044.

... Applicant.

(By Shri Yogesh Sharma, Advocate)

-versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, Delhi Division,
Near New Delhi Railway Station,
New Delhi.
3. Divisional Railway Manager,
Northern Railway,
Bikaner Division, Bikaner.
4. Baldev Singh S/O F.Chand
5. Kamal Kant Dutta S/O M.L.Dutta
6. Uttam Chand S/O Dal Chand

(Respondents 4-6 are presently working
as Lab. Asstt. at Northern Railway Station,
Tughlakabad Diesel Shed, New Delhi).

... Respondents

(By Shri Rajinder Khatter, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

This application has been made against the seniority list of Lab Assistants/DSL grade Rs.975-1540/3200-4900 dated 15.3.2000 (Annexure A-1) in which applicant's seniority has been fixed on the basis of the date of his redeployment in Delhi Division after declaring him surplus from Bikaner Division. Applicant

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claims that he is entitled to his seniority from the date of his appointment, i.e., 31.8.1990.

2. According to applicant he was appointed as Lab Assistant (grade Rs.975-1540) on 31.8.1990 in Loco Shed, Rewari in Bikaner Division. In 1998 Rewari Loco Shed was closed and applicant was declared surplus. According to applicant he was redeployed on being declared surplus as Fitter-III in Carriage and Wagon (C&W), Hissar. He represented against his posting as Fitter-III. His option was invited by the competent authority for redeployment and in reply applicant submitted four options as follows :

- "1. Railway Workshop Jabalpur.
2. Diesel Locomotive Works, Varanasi.
3. Diesel Loco Shed, Mugalsarai (NR).
4. Electric Loco Shed, Mugalsarai (NR)"

However, applicant was appointed at Diesel Shed, Tughlakabad in Delhi Division.

U 3. Referring to Railway Board instructions dated 21.4.1989 (Annexure A-7), learned counsel of applicant stated that applicant should have been adjusted on redeployment with full seniority. The specific instructions referred to by the learned counsel are as follows :

"3. When re-deploying the surplus staff to other units/Deptts. which constitute a different seniority unit, the following methods can be adopted:-

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- (i) If only a small number of staff are being rendered surplus and they have to be transferred to various units of

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other departments against vacancies of duly sanctioned posts, they can be suitably adjusted in these units with their full seniority and merging their seniority in the respective units."

The learned counsel stated that as per Annexure A-1 applicant's seniority was fixed at the bottom of Lab Assistants of Delhi Division treating him as a fresh appointee and denying him seniority since his original appointment.

4. The learned counsel of respondents raised the question of limitation stating that the post of Lab Assistant was surrendered in 1998 in Bikaner Division and applicant was posted on a supernumerary post of Fitter-III in C&W Section in the same Division on 5.3.1999. On applicant's refusal to join as Fitter-III, he on his own, submitted his options. Subsequently, he submitted his request for transfer as Lab Assistant in Delhi Division at Tughlakabad. He was, therefore, transferred to Tughlakabad in Delhi Division on his request and was assigned seniority vide Annexure A-3 dated 11.5.1999 at the bottom as per extant rules. The learned counsel stated that applicant could have taken exception to his seniority fixed vide Annexure A-3 within the time limit. Perusal of Annexure A-3 does not indicate fixation of applicant's seniority. Provisional seniority list (Annexure A-1) is dated 15.3.2000. The OA was filed on 20.3.2001. The objection of limitation, in the light of these facts, does not hold good.

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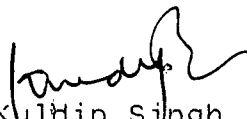
5. The learned counsel of respondents further stated that respondents had not asked for any options from applicant. He had been transferred on his own request and applicant stated that he would accept bottom seniority and as such he was transferred to Delhi Division.


6. Annexure A-5 dated 5.4.1999 issued by DRM, Bikaner Division, clearly states that applicant's post was surrendered and he was appointed on a supernumerary post of Fitter C&W in Bikaner Division on 5.3.1999. However, applicant made an application for his adjustment in Workshop, Charbagh, Lucknow. He also requested that he could be adjusted in Delhi Division at CMT Diesel Shed, Tughlakabad. No documents have been produced by applicant to establish that respondents had asked for any option from applicant for redeployment. Vide Annexure A-5 DRM, Bikaner Division, on the basis of applicant's request, consulted Chief Chemist and Metallurgist, Workshop, Charbagh, Lucknow and DRM, Delhi Division whether the applicant could be adjusted in Lucknow/Delhi. Vide Annexure A-4 dated 17.4.1999 respondents consented to applicant's transfer to Diesel Shed, Tughlakabad and consequently vide Annexure A-3 dated 11.5.1999 applicant was transferred to Tughlakabad. From these documents, it is established that basically on being declared surplus, applicant was redeployed in Bikaner Division itself but on his request he was transferred to Tughlakabad, Delhi Division. Respondents had not asked for any options from applicant for placement on redeployment in Delhi Division. In such cases, instructions contained in

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Annexure A-7 on absorption/utilization of surplus staff are not applicable. Clearly, it was a case of transfer from one Division to another requested by applicant himself. In this background, applicant cannot be considered for according his original seniority of Bikaner Division.

7. Having regard to the above discussion, the OA is dismissed being devoid of merit. No costs. .


(Kuldeep Singh)
Member (J)


(V. K. Majotra)
Member (A)

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