

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No.86/2001

New Delhi this the 15th day of March, 2002

(14)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Govind Sharan Sharma,
S/o late Shri Kishan Lal Sharma,
R/o C-25, Bhagatsingh Colony,
New Usman Pur,
Delhi-110053.

-Applicant

(By Advocate: Shri L.C. Rajput)

Versus

1. Union of India
Through the General Manager,
Northern Railways,
Baroda House,
New Delhi.

2. The Chief Personnel Officer (HQ),
Northern Railway,
Baroda House,
New Delhi.

-Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER (Oral)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

The applicant has challenged the vires of the order dated 15.12.99 issued by the respondents rejecting his request for sanction of officiating allowance ^{in the post of} ~~for~~ working, after retirement of Shri B.K. Suri, Chief Draftsman w.e.f. 31.3.91.

2. We have heard Shri L.C. Rajput, learned counsel for applicant and Shri V.S.R. Krishna, learned counsel for respondents and perused the pleadings and documents on record.

3. The brief relevant facts of the case are that while the applicant was working as Head Clerk, according to him,

Y/

no replacement was provided by the respondents after transfer of one Shri Jatinder Kumar, Assistant Superintendent on 30.11.1988. According to the learned counsel for applicant, the applicant was asked to look after the post which was earlier held by Shri Jatinder Kumar, which he did satisfactorily. Later on, on retirement of one Shri B.K. Suri, Chief Draftsman from service w.e.f. 31.3.91, the applicant was asked to take charge of all the establishment matters/files being dealt by Shri Suri with effect from the same date (Annexure A-6). According to the applicant, he continued doing the extra job(s) entrusted to him till he retired from service w.e.f. 31.12.92. He has not been given any promotion or officiating allowances in the post of Assistant Superintendent/Superintendent. Hence this OA.

4. The main relief prayed for by the applicant in the OA is that the impugned order dated 15.12.1999 should be quashed and set aside with a direction to respondents to consider the applicant for promotions as Asstt. Superintendent Grade 1600-2660 w.e.f. 1.12.1988 and as Superintendent grade 2000-3200 w.e.f. 1.4.1991 till his retirement on 31.12.92, with consequential benefits/retiral benefits.

5. The above claims have been contested by the respondents. Learned counsel for respondents has submitted that the applicant is not the seniormost Head Clerk and there were five other persons who were senior to him who had a better claim for promotion as Assistant Superintendent at the relevant time. He has also submitted

that no formal orders have been issued by the respondents with the approval of the competent authority, i.e., Head of Department (HOD)/Chief Personnel Officer (CPO) with respect to the additional charge the applicant was given on the retirement of Shri B.K. Suri on 31.3.91. Shri V.S.R. Krishna, learned counsel has submitted that the applicant himself in his representation dated 22.12.92 (Annexure A-11)^{has} stated that what the applicant was claiming is that since he had worked hard in the interest of administration, carrying ~~over~~ the heavy load of entire Drawing Office for the last four years after Shri Jatinder Kumar was transferred who was in the higher pay scale of Rs.1600-2660 and after retirement of Shri B.K. Suri, Chief Draftsman, he should be considered for promotion as Assistant Superintendent grade Rs.1600-2660 w.e.f. 1.4.91, i.e., after the retirement of Shri B.K. Suri, Chief Draftsman. Learned counsel has submitted that the applicant is in the clerical cadre whereas Shri B.K. Suri is in the technical cadre, and the question of promoting the applicant as Assistant Superintendent on retirement of a person from the technical cadre does not arise. He has also emphasised that as the applicant was not the seniormost Head Clerk and no junior to the applicant has been promoted as Assistant Superintendent w.e.f. 1.4.91, the applicant's claim for promotion in that grade will also not be tenable. Regarding the second claim made by the learned counsel for the applicant that he should be given officiating allowance for the period he has worked in the higher post of Assistant Superintendent/Superintendent, learned counsel for respondents has submitted that the arrangement under

which the applicant was working has not been done with the approval of HOD/CPO as required under the rules. In the circumstances, he has prayed that the OA may be dismissed. (16)

6. We have carefully considered the pleadings and submissions made by the learned counsel.

7. The applicant has relied on the letter issued on behalf of General Manager (Mechanical) on 28.12.92 addressed to the Dy. C.P.O. (Hqrs), Northern Railway, New Delhi (Annexure A-12). This has reference to a letter from the P.A. to C.M.E. (Note dated 26.11.1988). However, it is relevant to note that in this letter the officer writing on behalf of General Manager (Mechanical) has stated, inter alia, that as applicant has been looking after the work of Shri Jatinder Kumar promoted as Superintendent/M&P and also took the work of Establishment matters of DO(Mech,) from Shri B.K. Suri, Chief Draftsman who retired on 31.3.1991, he has shouldered higher responsibilities and sanction of the competent authority should be expedited for his promotion. This letter also refers to previous office notes from 1.9.89 onwards. It is also relevant to note that the Note dated 25.11.1988 from PA to CME has been referred which would indicate that the applicant had shouldered additional responsibilities of the post of Assistant Superintendent prior to that date. The respondents have not placed on record any documents to show what further action, if any, they had taken on this letter. However, in view of the fact that the applicant was not the seniormost Head Clerk at the relevant time, his claim for promotion to the post of Assistant

B.

Superintendent/Superintendent is not tenable as it is not in accordance with the Recruitment Rules. Hence this part of the claim of the applicant for promotion to the higher post of Assistant Superintendent/Superintendent from 1988 and 1991, respectively is rejected. (17)

8. The reference to the documents briefly referred to above show that certain officers of the Department have made some arrangements whereby the applicant had been given additional duties on transfer/retirement of Shri Jatinder Kumar and Shri B.K. Suri, respectively. There is also no denial of the fact by the respondents that the applicant did in fact shoulder the additional responsibilities of the higher posts for which he has not been sanctioned any additional emoluments/allowances as admissible to him under the rules. When the respondents were aware that some local arrangement has been made which arrangement has been continued for a number of years, the question arises why they should not have taken the approval of the competent authority to continue the arrangement.

9. In the above facts and circumstances, we consider it appropriate to dispose of the OA with the following directions:-

- i) The impugned order dated 15.12.99 is quashed and set aside;
- ii) Respondent No.2 to re-consider the case of the applicant in the light of the relevant facts and circumstances of the case for 9/

grant of allowance as admissible to him for shouldering the higher responsibilities during the aforesaid period;

iii) The above shall be done within three months from the date of receipt of a copy of this order with intimation to the applicant.

No order as to costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.

(18)