

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1233/1998

New Delhi this the 11th day of September, 2000

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VC (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Shri Manoj Kumar
s/o late Shri Sunder Lal

2. Shri Dhan Raj
s/o Shri Kauar Singh

Both working as Ticket Collectors
at Railway Station, Rewari
Northern Railway

... Applicants

REWARI
(By Adv. Ms. Meenu Mainee)

versus

Union of India : Through

1. The General Manager
Northern Railway
Baroda House
New Delhi

2. The Livisional Railway Manager
Northern Railway, Bikaner

3. Shri Mohan Lal, T.C., Bikaner

4. Shri Sri Niwas, T.C. DEE

5. Shri Sultan Ahmed, T.C. Bikaner

6. Shri Prem Singh, T.C. AMH

7. Shri Rajender, T.C. RTGH

8. Shri Kamal Sanwal, T.C. MBY

9. Manjeet Singh, T.C. CUR

10. Manjeet Singh, T.C. SONR

11. Virender Kumar, T.C. ..

12. Rakesh Chander, T.C. Bikaner

13. Ravinder Nath, T.C. HSR

14. Shri Shakil Ahmed, T.C. Bikaner

(all to be served through
the D.R.M. Northern Railway, Bikaner) ... Respondents
(Sh. R.L. Dhawan - Adv.)

ORDER (ORAL)

HON'BLE MR. JUSTICE, V.RAJAGOPALA REDDY, VC (J): (21)

In view of the change of traction and full or partial closure of steam loco Sheds, marshalling yards, goods sheds etc., several staff working in them have become surplus. In order to absorb the surplus staff, certain guide-lines have been issued by the Railway Board and as per the proceedings dated 21.4.89 (Annexure R-I), the surplus surplus re-deployed staff who have been posted against the vacancies of sanctioned posts, are entitled for their full seniority in their respective units. It is also stated that as per the Railway Board's proceedings dated 7.7.95, that while absorbing the re-deployed staff, their seniority should be protected.

2. The applicants were working as Ticket Collectors (TC) w.e.f. March, 1994. They are aggrieved by the seniority accorded to respondent Nos. 3 to 14 who have been shown at serial Nos. 2 to 7 in the seniority list of TCs published in 1995. Their grievance is that though they had been working as TCs before respondents 3 to 14 were redeployed, they are now shown as juniors to them. On the basis of their seniority, they have been promoted as TCs and the impugned order dated 26.6.97 in the grade of Rs.1200-2040/- ignoring the applicants though they were appointed much prior to them as TCs.

3. Learned counsel for the respondents Shri R.L. Dhawan, relying upon the proceedings dated 21.4.89 and 7.7.95, submits that respondents 3 to 8 and 11 were correctly shown as seniors to the applicant.

4. We have given careful consideration to the contentions raised by the parties in this case.

5. According to the official respondents, respondent Nos.3 to 8 and 11 who have been working as Fitters in the Steam Engine were found surplus, consequently, they have been re-deployed and posted as TC in new units. The short question that arises for consideration is whether they are entitled for protection of their seniority in the previous posts. The learned proxy counsel for the applicant, Ms. Meenu Mainee relies upon the judgement in Union of India & Ors. Vs. Savitri & Ors. 1998 (2) AISLJ 99 to contend that the surplus staff when redeployed ^{are} not entitled to count their previous length of service in the new Organisation/Posts. In the above judgement, learned judges considered the effect of rules framed under the proviso to Article 309 of the Constitution, for regulating the redeployment and readjustment of surplus staff against vacancies in the Central Civil Services and Posts (hereinafter called as the "Rules"). The scope of Rule 9 was also considered which reads as under:-

"9. Fixation of pay and seniority, counting of previous service for various other purposes and carrying over of lien/classification. - The fixation of seniority and pay of the surplus employee and counting of his previous service for various other purposes and carrying over of lien/classification in the new post to which he is appointed on redeployment under these rules shall be regulated in accordance with the instructions issued from time to time by the Govt. of India in this behalf." (emphasis supplied)

6. Govt. of India have framed the revised scheme indicating the manner in which and the extent to which surplus staff on being redeployed under the Rules can be given the benefit of their past service. Para 11.1 of the revised scheme provides that the services rendered by the surplus redeployed staff should not count towards seniority. Relying upon Rule 9 and the revised scheme framed thereunder, the learned judges found that the employees working in the All India Radio were not entitled to count their past service.

7. But in our view, this case has no application to the case in hand as it pertains to the Railway employees. It is not in controversy that the Railway servants are governed right from their recruitment into the Railways, their conditions of service, Conduct Rules, Seniority in service, till their superannuation and after superannuation, by a different Rules and instructions, which are compiled in Indian Railway Establishment Manual. Further, a close reading of Rule 9 of the Rules shows that for the application of the Revised Scheme, the redeployment of the Surplus Staff must have been made under the Rules. Whereas in the instant case, the redeployment was made under the guidelines issued by the Railway Board in view of the closing down of the loco-sheds. All the above would go to show that the Rules and the Scheme framed thereunder have got no application to the redeployment of Railway Staff and they are governed by the instructions and guidelines issued by the Railway Board.

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8. The judgements relied upon by the applicant, 6A

V.K. Pandey & Ors. Vs. Union of India & Ors., 1997 (1)

SC. SLJ. 577, and Rama Kant Chaturvedi and Others Vs.

Divisional Superintendent, Northern Railway, Moradabad &

Ors., 1980 (Supp) SCC 621 have no application to the

point raised in this case. In the former case, the

appellants were initially drafted on the diesel side of

the locomotive operations and subsequently, on

introduction of electrical engines, they were absorbed on

the electrical locomotive side. The question of

inter-se-seniority of employees already working on

electric locomotive side and those shifted from the

diesel locomotive side to the electrical locomotive side

had arisen. When the appellants approached the Tribunal,

the Tribunal held that as they were re-deployed, their

seniority would be counted only from the date of their

deployment. The Hon'ble Supreme Court confirmed the

findings of the Tribunal on the ground that they were

deployed to the electrical locomotive side as fresh

incumbents for the first time. In the later case, the

question that arose was whether the incumbents inducted

to the new unit earlier satisfying higher qualification

criterion then obtaining, would, by virtue of their

continuous officiation in the new post, remain senior

over those drawn later from the old to the new unit, with

regard to the subsequent relaxation in qualification.

Hence, seniority in the new unit would be the determining

criterion for the purpose of reversion of surplus staff

from new to the old unit. The specific question of

re-deployment of surplus staff in a new unit against

suitable vacancies has not been under consideration in

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these two cases. On the other hand, as per the instructions given by the Railway Board with regard to the surplus staff in the Steam Engines, namely, the applicants, has been contained in the guide-lines issued on 21.4.89 as well as in the proceedings issued on 7.7.95. It is clear from the guide-lines issued on 21.4.89 that if only a small number of staff are being rendered surplus and they have to be transferred to various units of other departments against vacancies of duly sanctioned posts, they can be suitably adjusted in those units with their full seniority and merging their seniority in the respective units. So also in the proceedings dated 7.7.95, the re-deployed staff are entitled for absorption with full seniority as if they had been "transferred on administrative grounds in terms of para 3.11 of the IREM". The combined reading of these guide-lines make it abundantly clear that the private respondents are entitled for protection of their seniority in the new unit.

9. In the circumstances, we have to hold that the respondents Nos. 3 to 8 and 11 have been rightly placed as TC protecting their seniority in the old unit.

10. The OA fails and is accordingly dismissed.
No costs.

S.A.T.Rizvi

(S.A.T.Rizvi)
Member (A)

Om Rajagopala Reddy

(V.Rajagopala Reddy)
Vice Chairman (J)

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