

(23)

Central Administrative Tribunal, Principal Bench

Original Application No.1820 of 1998
M.A.No.1930/98

New Delhi, this the 3rd day of August, 2001

Hon'ble Mr.Justice Ashok Agarwal,Chairman
Hon'ble Mr.S.A.T.Rizvi,Member(A)

1. Surendra Kumar Sharma
s/o Shri Ram Phool Sharma
China Temper Operator
O/o PWI Northern Railway
Delhi Sarai Rohilla/Delhi
2. Maru Ram alias Madoo Ram
S/o Shri Chiranjit Lal,China Temper Operator
O/o PWI Northern Railway
Delhi Sarai Rohilla/Delhi
3. Dhanna Ram
s/o Shri Chanda
China Temper Operator
O/o PWI Gurgaon
Headquarter at Delhi Queena Road
Delhi(M.G.)

- Applicants

(By Advocate: Shri G.D.Bhandari)

Versus

1. Union of India through
The General Manager
Northern Railway,Baroda House
New Delhi
2. Divisional Railway Manager
Northern Railway
Bikaner
3. Divisional Superintending Engineer(C)
Northern Railway/DRM Office
Bikaner
4. Assistant Engineer
Northern Railway(M.G.)
Hamilton Road/Delhi

- Respondents

(By Advocate: Shri P.M.Ahlawat)

O R D E R(ORAL)

By Mr.S.A.T.Rizvi,Member(A)

M.A.1930/98 for joining together in one OA, is
allowed.

2. On the expiry of sanction for the post of

China Temper Operator (in short 'CTO'), the applicants, three in number in the present OA who have been working as such on ad-hoc basis, have been reverted to their original substantive post of Gangman by respondents' letter dated 8.9.98 which has been impugned by the applicants. The prayer made is that the aforesaid impugned order should be quashed and set aside and a direction be given to the respondents to absorb/re-deploy the applicants in Class-III posts for which they have already submitted their options as demanded by the respondents, by holding that the applicants had been regularised as CTO ^{on deemed basis} in the pay-grade of Rs.950-1500.

3. We have heard learned counsel for the parties and have also perused the material placed on record.

4. What is not in dispute in the present OA is that the applicants were appointed as Gangman in group 'D' in the Civil Engineering Department, Bikaner Division, Northern Railway and that their further promotions would have been made in normal course to the post of Keyman in the pay-grade of Rs.825-1200 and thereafter to the post of Gangmate in the pay-grade of Rs.950-1500 and still further to the post of Permanent Way Mistry (in short 'PWM') in the pay-grade of Rs.1400-2300. The posts of Gangmate and PWM are group 'C' posts. Before the applicants could move up the ladder in the aforesaid channel, they were picked up by the respondents for a short duration training in order to be deployed as CTO on TLA basis. The applicants were posted as CTO in October, 1988 and October, 1991. They have continued to work as CTO and have been allowed to continue ^{at work}.

2 was renewed, by virtue of the stay granted to
as such even after the impugned order was stayed by this
Tribunal's order dated 18.9.98. Thus they are still
drawing salary in the very same grade in which they had
been drawing salary all along while working as CTOs.

5. The learned counsel appearing in support of the OA submits that vide their letter of 5.12.97 (Annexure A-14), the respondents gave an option to the applicants to seek re-deployment in "other categories including TTM Khallasi in HQ." Consequently, all the three applicants have opted for the post of Office Clerk by way of re-deployment, as provided above. The options so exercised have not yet resulted in an order of appointment as Office Clerk. This is the main grievance of the applicants.

6. The learned counsel appearing on behalf of the respondents submits that after 1996, there was no work left to be performed by the CTOs and that is the reason why the possibility of their re-deployment was considered. He contends however, that in terms of the aforesaid letter of 5.12.97 (Annexure A-14), the applicants were not entitled to opt for the post of Office Clerk. According to him, the aforesaid letter gave them option to seek re-deployment only as TTM Khallasi in HQ or in other equivalent posts. *I consider their claim for appointment as Clerk and they also cannot be blamed for the option wrongly exercised by the applicants by seeking re-deployment as office clerks.*

7. It is admitted that the applicants were appointed substantively as Gangman which is a group 'D' post and their lien in that post still continues. According to the learned counsel appearing for the

respondents, the work of CTO having finished, the respondents have correctly passed an order reverting them to their original substantive posts of Gangman in their parent office. He further submits that promotional avenues are still available to the applicants in their own channel and subject to fulfilment of the prescribed conditions, they can look forward to attain the grades of Keyman, Gangmate and PWM. Thus it is not as if by the impugned reversion, the future of the applicants in terms of their promotion has been sealed.

8. The learned counsel appearing in support of the OA, submits that by virtue of about ten years of service performed by the applicants in the pay-grade of Rs.950-1500 while working as CTO, they have become entitled to be considered and appointed on a post carrying the same pay-grade.

9. We are unable to appreciate the aforesaid plea. The applicants were, we find, picked up initially without any competition for training as CTO and were on completion of training, posted as CTO on TLA basis. There is no substantive post of CTO in the respondents' set-up. The said post does not form part of any cadre. There are no recruitment rules governing recruitment/appointment to the post of CTO. In this view of the matter, it cannot be held that the applicants were placed in the pay-grade of Rs.950-1500 by way of promotion and since they were not promoted to the pay-grade of Rs.950-1500, they cannot now advance the argument that having been promoted to a higher grade and having been allowed to stay in that grade for ten

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years or so, they have become entitled to be considered for appointment to a post carrying the same pay-grade and that their reversion is accordingly bad in law.

10. On being asked whether any of the applicants' juniors in the substantive grade of Gangman have since been promoted as Keyman or as Gangmate, the learned counsel appearing for the applicants is not able to supply a ^{& definite} ~~definite~~ information. Learned counsel for the respondents is also not able to give us the same information.

11. Having considered the merits of the case in the above paragraphs, we find that it would be in order and will also be just and appropriate to allow the applicants to seek their promotions in the aforementioned grades if any of their juniors have since been promoted and placed in those grades. Thus we dispose of the present OA by partly allowing the same by giving the following direction to the respondents:

"The respondents shall scrutinise their record to see if any of the Gangman junior to any of the applicants have since been promoted to the grades of Keyman, Gangmate etc. and on finding that such promotions have been made, they shall proceed to consider the promotion of the applicants to the same grades from the date their next juniors were promoted in their parent cadre. It is clarified that the applicants will be entitled to all the consequential benefits.

2) discussed in the aforesaid terms.

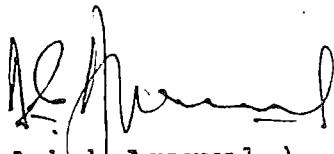
3. The respondents shall comply with these directions in a maximum period of three months from the date of receipt of a copy of this order."

No costs.


(S.A.T. Rizvi)

Member(A)

/dkm/


(Ashok Agarwal)
Chairman