

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2171 of 1998

New Delhi, dated this the 7th April, 2000

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

Shri Nawab Khan,
S/o Shri Ram Dayal,
Qr. No. 125-P, D.C.M., Colony,
Delhi-110006.

.. Applicant

(By Advocate: Shri P.M. Ahlawat)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi-110001.
2. The Divisional Railway Manager,
Northern Railway,
Bikaner Division,
Bikaner (Rajasthan).

.. Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 22.7.98 (Annexure A-1) and the revised seniority list dated 22.10.98 (Annexure A-2).

2. Applicant's case is that he was appointed as Goods Clerk in Ferozepur Division w.e.f. 29.7.82 and was promoted as Sr. Goods Clerk w.e.f. 13.1.86. He was transferred to Bikaner Division on mutual exchange with one Shri Amardeep Singh who had been appointed as Goods Clerk in September, 1975 against loyal quota and was promoted as Sr. Goods Clerk on regular basis in

April, 1984 in Bikaner Division. Applicant states that he being junior to Amardeep Singh, he was to have been assigned seniority as Senior Goods Clerk in Bikaner Division w.e.f. 13.1.86, as per Paragraphs 310 and 312 IREM Vol. I, but he was assigned seniority from the date of his joining as Sr. Goods Clerk in Bikaner Division i.e. 8.9.86 (Annexure A-3).

Subsequently he was promoted as Chief Goods Clerk in Bikaner Division in April, 1994 and he was shown at Sl. No. 45 above Shri Om Prakash Gandhi in the seniority list dated 25.3.95 (Annexure A-4) in which he is shown as having been promoted as Chief Goods Clerk in April, 1994, but by impugned seniority list dated 22.10.98 he has been placed at Sl. No. 46 and shown junior to those who were promoted as Sr. Goods Clerk even as late as 1997.

3. Applicant states that he has submitted representation against this arbitrary revision of his seniority but to no effect and meanwhile respondents have taken steps to fill up the promotional vacancies of Goods Supervisor in which he was called for the selection as per his prerevised seniority and was successful in the written test as well as the viva voce test but would now be eliminated because of the arbitrary revision of his seniority.

4. Respondents in their reply challenge the O.A. They admit that applicant was appointed as Goods Clerk in Ferozepur Division on 29.7.82 and was promoted as Sr. Goods Clerk there w.e.d. 13.1.86. They state that while working as Sr. Goods Clerk in Ferozepur, applicant sought mutual transfer with Shri Amardeep Singh who had been appointed as Goods Clerk in Bikaner

16

Division on ad hoc basis on 12.9.75 against loyal quota in excess of 20% quota and was promoted as Sr. Goods Clerk w.e.f. 23.1.84. Respondents state that on mutal transfer with Shri Amardeep Singh, applicant joined Bikaner Division as Sr. Goods Clerk on 8.9.96, but his seniority as Sr. Goods Clerk in Bikaner Division was fixed from 13.1.86 in terms of Para 310 IREM Vol. I.

5. Respondents further state that Railway Board in their letter dated 14.4.80 decided that all appointments of loyal wards made during 1974-77 in excess of 20% quota which included Shri Amardeep Singh may be treated as regularised from the dates on which they were originally appointed. This was challenged before C.A.T., Jodhpur Bench, who in their order dated 24.4.89 quashed Railway Board's order dated 14.4.80, SLP against that order of C.A.T. Jodhpur Bench was dismissed by the Hon'ble Supreme Court. Respondents state that revised seniority was circulated vide letter dated 31.5.96 (Annexure R/3) and as it was pointed out to them by one of the recognised Unions that applicant's seniority was tied to that of Shri Amardeep Singh with whom he had sought transfer in Bikaner Division, applicant was granted seniority as Sr. Goods Clerk w.e.f. 21.4.89 in Bikaner Division in terms of Para 310 IREM Vol. II which is the seniority which Shri Amardeep Singh would have had if he had remained in Bikaner Division.

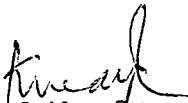
6. Applicant has filed rejoinder in which he has denied respondents' contention and broadly reiterated his own.


(17)

7. We have heard applicant's counsel Shri Ahlawat and respondents' counsel Shri Dhawan. We have also perused the materials on record and given the matter our careful consideration.

8. Whatever might have been the reason which prompted respondents to revise applicant's seniority, if they wanted to do so, they should have first put applicant to notice and should have given him a reasonable opportunity of being heard before taking a decision in the matter. We hold so because applicant was not a party in the various applications before the C.A.T., Jodhpur Bench nor in the SLPs before the Hon'ble Supreme Court. ^{Altering} ~~Although~~ applicant's seniority to his disadvantage and that too after the passage of so many years entails civil consequences, and an opportunity for hearing should have been afforded to applicant before respondents decided to alter his seniority.

9. Under the circumstances, the O.A. succeeds and is allowed to the extent that the impugned order dated 22.7.98 and the relevant entry in the impugned seniority list dated 22.10.98 in so far as it relates to applicant and shows his seniority position is quashed and set aside. If respondents seek to alter applicant's seniority in Bikaner Division, they shall do so only after putting applicant to notice and giving him a reasonable opportunity of being heard. No costs.


(Kuldip Singh)
Member (J)


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

/GK/