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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2279/98

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 19th day of September, 2000

Shri Naresh Kumar Malik
s/o Shri Gobind Ram Malik
Junior Ticket Inspector
under D.R.M. Office
C.T.I.
Railway Station
New Delhi.

... Applicant

(By Shri B.S.Mainee, Advocate)

Vs.

Union of India through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
State Entry Road
New Delhi. ... Respondents

(By Shri D.S.Jagotra, Advocate)

O R D E R (Oral)

By Justice Rajagopala Reddy:

While the applicant was working as Booking Clerk at Meerut under Respondent No.2, he made a request for change of category from Booking Clerk to Ticket Collector which has been allowed by the respondents by an order in January, 1980. The applicant under-went the required training and was posted as Ticket Collector at Ghaziabad against the existing vacancy in terms of letter dated 11.2.1980. He was however, relieved on 24.4.1980 and immediately thereafter he joined the post at Ghaziabad. When the respondents issued a show cause notice seeking to rectify the seniority of the applicant, stating that

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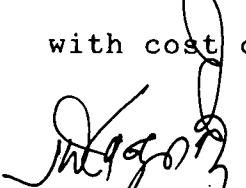
the applicant was erroneously assigned the seniority w.e.f. 11.2.1980 though he had joined as Booking Clerk only on 29.4.1980, he filed OA No.2926/97 which has been disposed of by order dated 5.8.1998 directing the respondents to consider the representation of the applicant wherein the applicant has stated that his date of appointment should be taken as 11.2.1980 and not 29.4.1980 when he only joined after being relieved from the post of Booking Clerk. An order was now passed stating that the applicant was not entitled to be considered for seniority w.e.f. 11.2.1980 as he had joined only on 29.4.1980. This order is now under challenge in this OA. In the reply, averments are made in support of the impugned order stating that the applicant was entitled for seniority only w.e.f. 24.4.1980.

2. Having considered the arguments advanced by the learned counsel, we find sufficient force in the contentions raised by the counsel for the applicant. In the order dated January, 1980, the applicant's request for transfer has been accepted. He could not, however, immediately join as Ticket Collector as he had not been relieved by the Department even though he made an application for relieving him. A perusal of the order dated 11.2.1980 which is filed at Annexure-A3 clearly manifests that the applicant had been posted against the existing vacancy on 11.2.1980 itself and that he was only ranked junior to those Ticket Collectors who had already been appointed on date and earlier and all those who were senior to him in the priority for such change of category. This shows that his seniority

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should be reckoned only from 11.2.1980. By a fortuitous circumstance of delayed relief, may be due to the administrative exigencies, an employee should not be made to suffer. In V.Brahmiah Vs. Chief Personnel Officer and Another, 1992(2) AISLJ (CAT) 204 it has been clearly held that the employee who was not spared for administrative reasons should not be made to suffer. In the counter, it was admitted that he was not relieved due to the administrative reasons. The date of joining of the applicant should relate back to the date of actual transfer, i.e., 11.2.1980. In fact, in this case the applicant has already lost his seniority while changing the category from Booking Clerk to Ticket Collector and he cannot be made suffer and lose further seniority by virtue of the delayed relief on the part of the respondents.

3. The OA therefore succeeds and the impugned order dated 23.10.1998 is quashed. The applicant is entitled for seniority w.e.f. 11.2.1980. The respondents are directed to issue the revised seniority list within a period of three months from the date of receipt of a copy of this order with all consequential benefits. The OA is accordingly allowed with cost of Rs.2000/- (Rupees Two Thousand Only).


(GOVINDAN S. TAMPI)
MEMBER(A)


(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/