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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 795
T.A. No.

199

DATE OF DECISION

30-6-97

Shri Jile Singh

Petitioner

Shri G.D. Bhandari

Advocate for the Petitioner(s)

Versus

UOI through Genl. Manager & Ors

Respondent

Shri R.L. Dhawan

Advocate for the Respondent(s)

CORAM

The Hon'ble Shri S.R. Adige, Member (A)

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? *Y* *X*
2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A No. 7/1995

New Delhi this the **30 th** Day of **June, 1997**

Hon'ble Shri S.R. Adige, Member (A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Jile Singh
Son of Shri Dhalia Ram
Relieving Asstt. Station Master,
Under Area Railway Manager,
Northern Railway, (MG)
Hamilton Road,
Delhi.

Applicant

(By Advocate: Shri G.D. Bhandari)

-Versus-

Union of India, through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Bikaner

Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant has filed this application being aggrieved by the order dated 11.3.1994 in which he states that he has been given the ladder posting in the pay scale of Rs. 1200-2040 while according to him, his juniors have been given the higher grade of Rs. 1400-2300 (RPS). According to the applicant his name appears at serial No. 14 under para D while the names of his juniors appear at serial Nos. 23, 26, 32 and 33 under para C of the Order. He has alleged that this order is malafide and illegal.

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2. The brief facts of the case are that the applicant states that he was first appointed as Assistant Station Master, (ASM) on 19.11.1991 and having worked in that post upto 30.3.1993 he was discharged and later re-engaged on the same post in the same pay scale. The applicant has challenged the order of discharge dated 30.3.1993 (Annexure A-1). The applicant submits that he has been recruited by the Railway Recruitment Board vide letter dated 16.3.1991. In this letter it has been stated that he has been selected for the post of Prob. ASM and that before taking further action for appointment he had to complete certain formalities. Subsequently he was directed to attend the pre-requisite training course for the said post which was scheduled to be held at Zonal Training School, Chandausi from 9.12.1991 to 5.5.1992. He was also required to undergo the medical examination. After passing the medical test, the applicant states that he attended the training course and respondent No. 2 issued the letter dated 12.5.1992. By this letter he was put on practical line training of 45 days referred to as T1 course, during which period he was to be paid a stipend. According to him, after about ten days of training, he was given the independent charge of ASM due to shortage of personnel. At this time, the result of his zonal Training Course at Chandausi was received in which he was declared passed except in one subject i.e. Coaching practical. The applicant was again sent for further training on this subject in the Zonal

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Training School at Chandausi. During this period the applicant claims that he continued to hold independent charge as ASM. He again failed in the practical subject and thereafter the Memo dated 30.3.1993 was served on him whereby he was discharged and his charge was handed over to Shri Ravi Jain R/ASM. According to the applicant he had to be given three chances for passing the departmental training course. In the second repeat chance the applicant commenced the training from 12.4.1993. The respondents issued the Order dated 4.10.1993 appointing the applicant on the direct recruit quota as ASM after he was declared passed in the T1 course held in the Zonal Training School, at Chandausi from 12.4.1993 to 26.6.1993. In this letter they have offered him a temporary post of ASM in the pay scale of Rs. 1200-2040 (RPS).

3. The main contention of Shri Bhandari, Learned Counsel ^{is as} ~~is~~ that the applicant should have been considered as appointed to the post of ASM from 19.11.1991 when he was first appointed as Prob. ASM. He claims that his seniority has to be counted from the initial date of appointment in terms of para. 302 of the Indian Railway Establishment Manual, (IREM Volume I). The learned counsel for the applicant submits that two other persons, S/Shri Tasbir Singh and Inder Dev Yadav whose names appear at serial Nos. 23 and 26 of the impugned order dated 11.3.1994 have been placed above him contrary to the rules. He submits that they have also passed the training course in the second chance like the

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applicant, and while they have been given the original seniority, the same has been denied ^{to B:} the applicant. He, therefore, submits that the respondents have adopted different yardstick to deny the applicant his seniority from the date of his initial appointment in 1991.

4. The respondents have filed their reply and on direction of the Tribunal, they have also filed an ~~the~~ additional affidavit regarding the claim of the applicant to his seniority as given to S/Shri Tasbir Singh and Inder Dey Yadav whom he alleges are similarly situated. The respondents have submitted that as the applicant did not qualify the T1 pre-requisite training course in the first chance, he had been regularly discharged by the order dated 23.3.1993 which was communicated to him by the order dated 30.3.1993. He had been given a second chance to undergo the T1 training and after passing the course in the second attempt, the applicant was appointed as ASM vide order dated 4.10.1993 and he can only claim seniority from that date. They have also submitted that the relief claimed against the order dated 30.3.1993 is barred by limitation and he has also not mentioned this in para 1 of the O.A. ^{stated B:} They have ^l that they have issued the offer of appointment letter to the applicant on 4.10.1993 which he has accepted on the same day. They have denied that earlier to that date he had held any substantive post of ASM and they have submitted that ^{only then B:} for the first time he was appointed ^l as Assistant Station Master in the pay scale of Rs. 18:

1200-2040(RPS). In the additional affidavit they have submitted that the case of the applicant and the other two employees, S/Shri Tasbir Singh and Inder Dev Yadav are entirely different. The applicant was a direct recruit through the Railway Recruitment Board whereas the other two employees were promotees to the post of ASM in the pay scale of Rs. 1200-2040 (RPS). They have further submitted that these two promotees had qualified in P-21 (pre-requisite promotional course) as per the following details:

<u>Duration of Course</u>	<u>Result</u>
<u>Tasbir Singh</u>	
1. 15.7.91 to 9.12.91	(Failed)
2. 12.7.93 to 27.10.93	Supp. finally passed
<u>Inder Dev Yadav</u>	
1. 15.7.91 to 9.12.91	Supp. finally failed
2. 25.1.93 to 11.5.93	Supp. finally passed

The respondents have submitted that as per the relevant Railway Instruction No. 10914, the currency of the panel is two years and those who qualify the pre-requisite promotion course during the currency of the panel shall have the seniority protected as per the panel position. Since both the promotees had finally qualified in the training course during the currency of the panel, their position has been given in accordance with these instructions. The applicant, on the other hand, was a direct recruit of 1991 and he was declared finally passed only after the second attempt in the course conducted at the Zonal Training School at Chandausi from 12.4.1993 to 26.6.1993, the result of which was declared on 27.8.1993. Thereafter, the applicant had been issued the appointment letter.

J.S.

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dated 4.10.1993 and assigned the correct seniority in terms of para 303 IREM Vol. I. Shri R.L. Dhawan, learned counsel for the respondents has, therefore, submitted that the applicant is not entitled for any relief and the application may be dismissed.

6. We have considered the pleadings and the submissions made by the learned counsel for both the parties.

7. The applicant's contention that he has been regularly appointed as ASM from the date of his initial appointment in 1991 cannot be accepted for the following reasons:- From the various Annexures annexed by the applicant himself, it is seen that he has been referred to as Prob. ASM in the pay scale of Rs. 1200-2040, had to undergo the training before appointment, and during the training period he was paid stipend of Rs. 1200/- plus allowances as admissible. It is also clear from the facts mentioned above that the applicant had to undergo and pass the pre-requisite training course at the Zonal Training School at Chandausi. Admittedly, he failed in the first chance in one of the subjects and he had been allowed to avail of a second chance in the training course from 12.4.1993 to 26.7.1993. The result of the said training Course was declared by the Principal ZTS, Chandausi on 27.8.1993. Para 303 of IREM Vol.I which applies to the applicant reads as follows:

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303 The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:--

- (a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses.
- (b) In the case of candidate who do not have to undergo any training in training school, the seniority should be determined on the basis of the merit order assigned by the Railway Recruitment Board or other recruiting authority". (Emphasis added).

8. Therefore, having regard to the provisions of para 303 of IREM Vol I, the applicant cannot claim seniority from the date of his initial appointment without passing the requisite training course in the post of ASM in the pay scale of Rs. 1200-2040 (RPS). The applicant's contention that his juniors S/Shri Tasbir Singh and Inder Dev Yadav have been wrongly placed above him is also without any basis as they do not belong to the same category of recruits, the applicant being a direct recruit and the other two persons are promotees. The seniority of persons who are promotees have been dealt with in para 302 of the IREM Vol 1. which is not, therefore, applicable to the applicant. The respondents have issued the letter No. P-5/940E-4/ASM/Vol.II dated 11.3.1994 dealing with

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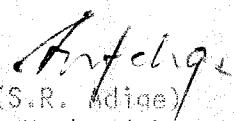


the placement of persons who had qualified in the promotional course in any of the attempts within the currency of the life of the panel under which these two promotees have been correctly assigned their seniority. When the applicant, who is admittedly a direct recruit through the Railway Recruitment Board in 1991 had failed to qualify in the pre-requisite Zonal Training Course held at Chandausi in the first attempt, then he will get his seniority depending on his merit position after he completes the training successfully in the second chance when he can be posted against a working post. Therefore, merely because he had worked as Prob. ASM from 16.3.1991 when he was selected by the Railway Recruitment Board does not give him any right of seniority under the relevant provisions of Para 303 of IREM, Vol I.

9. In the above facts and circumstances, the relief sought by the applicant regarding quashing of the impugned discharge order dated 30.3.1993 is without any merit and it is also time barred. Therefore, it is rejected. In the result we find the action taken by the respondents and the impugned order dated 11.3.1994 is legal and valid which justifies no interference. The application is without any merit and is accordingly dismissed. No order as to costs.



(Smt. Lakshmi Swaminathan)
Member (J)



(S.R. Adige)
Member (A)

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