

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 133/1998

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New Delhi, this the 29th day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

N.V.S.Prasada Sarma S/O N.Ramasesheiah,
Employed as Commercial Inspector
(on deputation) in Railway Board,
New Delhi.

... Applicant

(In person)

-versus-

1. The Divisional Railway Manager,
S.C.Railway,
Secunderabad (AP).

2. The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad (AP).

... Respondents

(None present)

O R D E R (ORAL)

Shri V.K.Majotra, AM :

The applicant is aggrieved by the order dated 10.9.1994 passed by the Chief Personnel Officer, South Central Railway, posting the applicant as Chief Enquiry-cum-Reservation ^{Supervisor} Clerk (for short, CERC) in the scale of Rs.2000-3200 when he had opted for the Commercial/ Inspectorial cadre in the same scale.

2. The applicant was appointed as Commercial Clerk in 1966. He opted for promotion as Enquiry-cum-reservation Clerk on 12.8.1993. Vide circular dated 27.5.1974 (Annexure A-1), it was notified that staff which had opted for promotion to ECR cadre are eligible to seek promotion beyond the grade of Rs.370-475 (AS)/ Rs.550-750 (RS) in the Commercial, Clerical and Inspectorial cadres or their parent cadre, whichever was

applicable to them. The applicant joined as Investigating Inspector on 14.12.1986 in the grade of Rs.2000-3200. He made representation to the Chief Personnel Officer on 9.10.1988 seeking seniority in his parent cadre followed by further representations on 13.7.1992 and 28.12.1993. According to the applicant, ignoring the aforesaid representations and the circulars the applicant was posted as Chief Enquiry-cum-Reservation Supervisor (for short, CERS) in the scale of Rs.2000-3200 in Hubli Division vide order dated 10.9.1994 (Annexure A-6). The applicant being aggrieved by the aforesaid order dated 10.9.1994 served a legal notice under Section 80 CPC to the General Manager (P) on 29.10.1994 (Annexure A-7). The applicant has sought directions to the respondents to promote him to the post of Commercial Clerk/Inspector in the grade Rs.2000-3200 in his parent cadre in accordance with the 1974 circular. He has also sought seniority from 1987 when he reached the prescribed grade as per the circular, with consequential benefits.

3. In their counter the respondents have stated that the applicant joined railway service on 28.6.1967 as temporary Commercial Clerk in grade Rs.110-180. He was promoted to the post of ERC grade-III in the scale of Rs.330-560. According to the respondents, on the date of his promotion to the post of ERC, the following was the avenue for promotion for further progress in the cadre of ERC :

| POST | PAY SCALE FORM 1.1.1973 | PAY SCALE FROM 1.1.86 |
|-------------------------------------|----------------------------|--------------------------|
| Commercial Inspector (Selection) | Rs.700-900 | Rs.2000-3200 |

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|--|------------|--------------|
| Chief Reservation Supervisor (Non-selection) | Rs.550-750 | Rs.1600-2660 |
| ECRC Grade-I (Selection) | Rs.455-700 | Rs.1400-2300 |
| ECRC Grade-II (Non-selection) | Rs.425-640 | Rs.1400-2300 |
| ECRC Grade III (Selection) | Rs.320-560 | Rs.1200-2040 |

4. The post of ERC could be filled upto the extent of 75% on the basis of selection by the candidates from amongst the categories of TTEs/TCs and Commercial Clerks who had put in not less than three years of service in their respective posts, and the balance 25% posts by direct recruitment. The notification dated 27.5.1974 states that staff once admitted to the reorganised ^{Cadre} of ERC on the basis of option exercised by them would seek further promotion in that cadre only up to the grade of Rs.550-750; till they reached this grade they would not have any claim for promotion in their parent cadre and the option once exercised by them would be final. They have, however, been made eligible to seek promotion beyond the grade of Rs.550-750 in the Commercial, Clerical and Inspectorial cadre, whichever is applicable to them. Since the ERC did not have an avenue of promotion to the grade Rs.700-900 in their own cadre they were provided an avenue to the grade of Commercial Inspector vide Board's letters dated 29.2.1964 and 20.11.1964. The respondents have contended that the position has since changed with the creation of adequate number of higher posts through successive exercises in cadre restructuring. The Board has, therefore, decided to withdraw the abovequoted directives. It is now open to the railway administration to carry out necessary

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modifications in the channel of promotion in consultation with recognised unions. The avenues of promotion of ERC was modified w.e.f. 16.1.1979 as under :

| POST | PAY SCALE FROM 1.1.1973 | PAY SCALE FROM 1.1.1986 |
|--|----------------------------|----------------------------|
| Chief Reservation Supervisor (Selection) | Rs.700-900 | Rs.2000-3200 |
| Reservation Supervisor (Selection) | Rs.550-750 | Rs.1600-2660 |
| ECRC Grade-I | Rs.455-700 | Rs.1400-2300 |
| ECRC Grade-II | Rs.425-640 | Rs.1400-2300 |
| ECRC Grade-III | Rs.330-560 | Rs.1200-2040 |

On supersession, the notification dated 25.7.1974 is no longer in force beyond 16.1.1979. A copy of the circular dated 16.1.1979 is at Annexure R-1. The respondents have stated that the applicant has been promoted to Grade Rs.700-900 in the cadre of ERC as Chief Enquiry and Reservation Supervisor ^(CERS) by virtue of his turn of eligibility with effect from 10.9.1994, which he did not carry out. The respondents have denied that the applicant had been posted as CERC in the scale of Rs.2000-3200. They have also denied that the applicant had opted for the Commercial Clerks/Inspectorial cadre in the same scale. He was posted as Commercial Inspector to Railway Board on deputation basis and had been promoted in the cadre of CERS in the scale of Rs.2000-3200 by virtue of his turn of eligibility w.e.f. 10.9.1994. The respondents have further pleaded that having opted to join the cadre of ERC after accepting all such terms and ^{as} conditions ^{as} stipulated in circular dated 27.5.1974, the applicant was promoted as ERC in the scale of Rs.330-560

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after due course of selection comprising of a written test followed by viva voce. He was eligible to seek further promotion in the cadre of ERC up to the grade of Rs.550-750 beyond which he was eligible to seek promotion in his parent cadre being of Commercial Clerks/Inspectors. Since the circular dated 27.5.1974 has been superseded by another circular dated 16.1.1979 he is no longer eligible to seek promotion in his parent cadre. The respondents have denied to have received his representations dated 9.10.1988, 13.4.1992 and 28.12.1993. They have also stated that they have not received any legal notice from the applicant.

5. We have heard the applicant and perused the material available on record before us. Apart from reiterating the points made in his O.A., the applicant ~~informs~~ that he had taken voluntary retirement w.e.f. 31.1.2000. He also states that though he had been promoted as CERS w.e.f. 10.9.1994 in the cadre of ERC by virtue of his turn of eligibility, he did not accept the same as that would have entailed his transfer.

6. A perusal of the circular dated 16.1.1979 (Annexure R-1) indicates that since the ERCs did not have an avenue of promotion to the grade Rs.450-575 (AS)/ 700-900 (RS) in their own cadre, they were given an avenue to the grade of Commercial Inspector vide Board's letters dated 29.2.1964 and 20.11.1964. The position having changed with creation of adequate number of higher grade posts through successive exercises in cadre restructuring the percentage of posts in grade Rs.700-900 (RS) available in their own cadre to the ERC is substantially more than those available to the Commercial Clerks. The

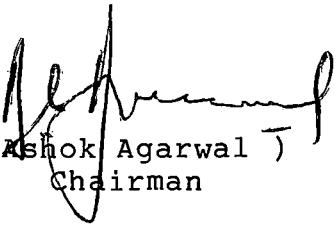
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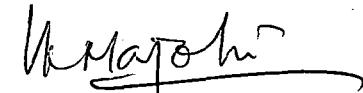
Board, therefore, decided to withdraw the above quoted directives. It was also clarified in circular dated 16.1.1979 that it would be open to the railway administration to carry out necessary modification in the channel of promotion in consultation with recognised unions. Since the two recognised unions in the case of the South Central Railway had already asked for the said change, the Board agreed to change being made with immediate effect. This implies that instructions contained in the circular dated 16.1.1979 became immediately applicable in the case of South Central Railway under which the applicant had been working. As per the circular dated 27.5.1974 (Annexure A-1) it had been made clear that the option once exercised by the officials would be final. However, they would be eligible to seek promotion beyond the grade of Rs.370-475 (AS)/550-750(RS) in the Commercial Clerks/Inspectorial cadre/their parent cadre, whichever was applicable to them. Had the circular dated 27.5.1974 not been superseded by circular of 1979, the applicant would have been entitled to the reliefs sought by him. However, till 1987 he would not have been entitled to the benefits under the 1974 circular which had, in any case, been superseded by the 1979 circular with immediate effect so far as the South Central Railway is concerned.

7. Although the respondents have denied to have received any representations as well as the legal notice from the applicant, as per the applicant's version, he had made representations on 9.10.1988 and thereafter which in point of time had been made by him after the 1979 circular had become effective. The respondents, in any case, would not have taken any positive action on such representations.

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8. Having regard to the reasons and discussion made above, we do not find merit in the present O.A. which is accordingly dismissed. There shall, however, be no order as to costs.


(Ashok Agarwal)
Chairman


(V. K. Majotra)
Member (A)

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