

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No.484 of 1996

Dated this 7th day of December, 1999

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

Girdhar Singh  
S/o Shri Bhim Sen  
R/o Adarsh Colony, Shalla Garh  
Palwal, Distt. Faridabad  
Haryana.

... Applicant

(By Advocate: Shri S.C. Luthra)

Versus

1. Union of India, through  
General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. Controller of Stores  
Northern Railway  
Baroda House  
New Delhi.
3. Shri Hardeva  
Depot Store Keeper Gr.II  
service to be effected through  
Respondent No.2.
4. Shri Prahlad Kumar, Now Assistant  
Controller of Stores  
Northern Railway  
Shakurbasti  
*Delhi*.  
... Respondents

(By Advocate: Shri O.P. Kshatriya)

O R D E R (Oral)

Mrs. Shanta Shastry, M(A):

The applicant who is a Depot Store Keeper Grade-II has approached this Tribunal to quash withdrawal order of his regularisation as a Depot Store Keeper Grade-II as contained in the Office Order No.49 dated 26.3.1990 and to direct the respondents to grant him regularisation in the said post with effect from 7.11.1985 without disturbing

the position in the existing seniority list of Depot Store Keeper Grade-II at par with his juniors.

2. Initially the applicant, who belongs to scheduled caste community, joined as a Railway Clerk on 19.2.1996 in the Stores Department. He was later on promoted as Senior Clerk and further promoted as officiating Ward Keeper in the grade of Rs.425-600 on 16/17.6.1981. Thereafter on 19.7.1983 the posts of Ward Keeper and Assistant Keeper which were in different grades were merged into a single grade of RPS.425-700 and they were redesignated as Depot Store Keeper Grade-III with effect from 1.8.1983. The applicant's services in the post of Depot store Keeper Grade-III were regularised on 15.2.1985 with retrospective effect from 1.8.1983. The applicant was further promoted as Depot Store Keeper Grade-II provisionally with effect from 2.9.1985 in the grade of Rs.550-750 against the Scheduled Caste quota. This was done so by reverting a general category candidate. Two of his juniors who are also Scheduled Castes, namely Shri Hardeva and Shri Prahlad Kumar were ignored for promotion on this occasion. subsequently his services as Depot Store Keeper Grade-II were regularised vide Office Order dated 19.9.1986.

3. In the meantime, the post of Depot Store Keeper Grade-II which was earlier classified as a non selection post was reclassified on 7.11.1985 as

a selection post having prospective effect. According to the notification the persons who were promoted prior to 7.11.1985 on regular basis were to continue in that post and were not subjected to selection process as per the new classification. Thereafter about three years later the applicant's order of regularisation dated 15.2.1985 in the Depot Store Keeper Grade-II post was withdrawn by Office Order dated 20.1.1988 on the plea that withdrawal was subject to modified selection. Further in continuation another Office Order dated 29.4.1988 was issued declaring the provisional panel of Depot Store Keeper Grade-III and the name of the applicant was shown at serial No.31. Thereafter again the applicant was regularised with retrospective effect from 7.11.1985 vide order dated 18.10.1988. Two years later again the respondents withdrew the regularisation of the applicant as well as that of another Scheduled Caste candidate vide Office Order dated 26.3.1990. In that list two other Scheduled Caste candidates, namely Shri Hardeva and Shri Prahlad Kumar who had earlier been ignored for promotion to Depot Store Keeper Grade-II, were regularised. The applicant had filed an OA in this Tribunal and the Tribunal directed the respondents to give a show cause notice and an opportunity to the applicant before such deregularisation. In compliance of the directions of this Tribunal in the judgment dated 8.8.1994 in OA.895/90 a personal hearing was granted to the applicant and an order

dated 26.8.1994 was passed. Thereafter the applicant made a representation. However the withdrawal of regularisation orders of 26.3.1990 were justified by the respondents and the applicant was informed that his case for regularisation as Depot Store Keeper Grade-II will be considered from the date when his immediate junior was regularised with effect from 13.7.1991. The applicant was given opportunity to appear in the selection for the post of Depot Store Keeper Grade-II held in the years 1991 and 1992, but he failed to appear of his own accord. He was again considered for promotion as Depot Store Keeper Grade-II under modified selection procedure as a result of the enhanced number of vacancies due to restructuring of the cadre and then the applicant's ad hoc promotion was regularised with effect from 1.3.1993.

4. It is the contention of the applicant that when he was regularised on 7.11.1985, his promotion and regularisation should not have been disturbed after a lapse of so many years and his juniors should not have been placed above him when they had been ignored earlier when the applicant was promoted.

5. According to the respondents Shri Hardeva and Shri Prahlad Kumar were originally senior to the applicant. They were not promoted earlier due to

administrative error. Also a seniority dispute in regard to Depot Store Keeper Grade-III was settled and, therefore, after a review Shri Hardeva and Shri Prahlad Kumar were promoted and placed above the applicant. Further the quota meant for the Scheduled Castes was fully accounted for and the applicant being the juniormost his regularisation in the post of the Depot Store Keeper Grade-II had to be withdrawn.

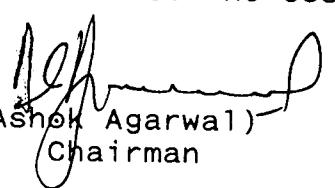
6. We have heard the learned counsel for the applicant and have perused the counter filed by the respondents as none was present on behalf of the respondents. We are not satisfied with the clarification given in the counter for withdrawing the regularisation in Depot Store Keeper Grade-II of the applicant. The applicant had actually been promoted and regularised with effect from 7.11.1985. This was when the other candidates were not even in picture. The regularisation was withdrawn on 20.1.1988. It was again restored vide order No.152 dated 18.10.1988. Thereafter the regularisation was finally withdrawn vide order No.49 dated 26.3.1990. One of the reasons given for withdrawing his regularisation was that it was subject to modified selection. It has already been brought out that the order of 7.11.1985 changing the classification of the post of Depot Store Keeper Grade-II to a selection post clearly provided that the orders were to be with prospective effect and those already

promoted earlier were not to be disturbed. Even if Respondents 3 & 4 i.e. Shri Hardeva and Shri Prahlad Kumar were to be accommodated against the Scheduled Caste quota, it was not proper to have disturbed the promotion of the applicant as he had put in three years in the post of Depot Store Keeper Grade-II when the order of withdrawal of his regularisation had been issued. Also the final orders of withdrawal were issued in 1990, i.e when the applicant <sup>had</sup> <sub>^</sub> put in more than five years. There is a judgment of the Hon'ble Supreme Court in the case of K.R. Mudgal & Ors. Vs R.P. Singh & Ors 1986(4)SCC.531 which held that promotions should not be disturbed after a long lapse of time. A Government servant who is appointed to any post originally should at least after a period of 3 or 4 years of his appointment be allowed to attend to the duties attached to his post peacefully and without any sense of insecurity. This would apply in the case of the applicant also. It is unfair to have withdrawn his regularisation after a period of 3 to 5 years.

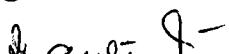
7. We, therefore, grant the prayer of the applicant and direct the respondents to restore the applicant's date of regularisation in the post of Depot Store Keeper Grade-II with effect from 7.11.1985 and to place him above Shri Hardeva and Shri Prahlad Kumar i.e., respondents 3 & 4 who were promoted later. The applicant will be entitled to

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further consequential benefits such as promotions etc. No arrears are allowed. No costs.

  
(Ashok Agarwal)

Chairman

  
(Mrs. Shanta Shastry)

Member(A)

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