

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 205 of 1997

New Delhi, this the 11th day of September, 1998

HON'BLE MR. T. N. BHAT, MEMBER (J)

HON'BLE MR. S. P. BISWAS, MEMBER (A)

Sh. B B Singh, son of Sh.
Ghanshyam Singh, H.No. 122,
South Anarkali Extension, Delhi -
110 051.

-APPLICANT.

(By Advocate: Sh. P M Ahlawat)

Versus

1. Union of India through the
General Manager, Northern
Railway, Baroda House, 110
001.

2. The Divisional Railway
Manager, Northern Railway,
State Entry Road, New
Delhi.

-RESPONDENTS.

(By Advocate -Ms. B Sunita Rao)

O R D E R

By Mr. S.P. Biswas, Member (A)-

The applicant, a Junior Ticket Inspector in the grade of Rs. 1600-2660, is aggrieved by Annexures A-1 and A-2 orders dated 20.12.1996 and 7.1.1997, respectively. By Annexure A-1 order, the applicant alleges that his seniority position has been altered to his disadvantage without putting him on notice. By Annexure A-2, his claim for consideration to appear in the selection of Chief Inspector of Tickets Grade Rs. 2000-3200 has been ignored in that he has not been called for the said test. Consequently, the applicant has sought relief in terms of issuance of directions to respondents to assign him the correct seniority.

D

(17)

promoting him as Head Travelling Ticket Examiner (1400-2000) w.e.f. 1.1.1984 and as Junior Inspector of Tickets (1600-2600) w.e.f. 1.3.1993 with all consequential benefits. He also seeks to quash the proposed selection of Chief Inspector of Tickets Grade Rs. 2000-3200 proposed to be held in February, 1997 till the case of his seniority and promotion is decided.

2. When the case came up for the first hearing on 29.1.1997, the applicant's plea for interim relief in terms of restraining the respondents for holding the aforesaid was not accepted. This was because the applicant has only challenged the seniority list and in the interim relief granted it was mentioned that promotions, if any, to the post of Chief Inspector of Tickets, shall be subject to the final outcome of the OA.

3. The applicant seeks to justify the aforesaid claims on the basis that the respondents have resorted to discriminatory attitude in that promotions have been granted to certain employees, namely, Sh. Dalip Singh and Sh. Bal Kishan ignoring the superior claim of the applicant because of his better seniority position. The applicant has also alleged that juniors to him have been promoted w.e.f. 1.1.1984. Relying heavily on the judgement of the Hon'ble Supreme Court in the case of KARNAIL SINGH VS. THE STATE OF PUNJAB AND OTHERS, JT 1994 (6) 583, the learned counsel contended that non promotion of the applicant to higher grade from the date

D.

on which their juniors were promoted is not justified and that the applicant has to be deemed to have been promoted at par with the juniors.

4. In the counter, the respondents have taken the plea of limitation. This is because the promotion in the grade of Rs. 1400-2300 as Head TCR etc. w.e.f. 1.1.1984, were made as per the then channel of promotion in existence by way of asking options from the relevant categories of officials. As the system calling options were abolished thereafter and promotions were made first as Head TCR and then Head TTE, the applicant will have no claim. The applicant cannot take the plea of not being unaware about the promotions of his juniors made 13 years back in the year 1984-85, as per the options given at that time. The applicant opted only for Head TTE and there was acute shortage of vacancies for that category at the relevant time whereas those who opted for other categories like Head TTE or Head TCR could be promoted based on the options exercised by them and from the promoted post they could have an entry for the promotional post of Head TTE. The applicant had opted only for Head TTE whereas Sh. Dalip Singh opted for Head TCR. The case of Sh. Bal Kishan has been wrongly cited by the applicant since the former was senior from the very beginning in that capacity and was promoted as Head TTE w.e.f. 1.1.1984 whereas the applicant could be promoted only from 1.3.1993. In other words, as per rules, promotion to the category of Head TTE/ Head TCR have been effected based on seniority as well as options. During the course of the arguments, it was submitted that the related matters touching upon the claim of promotions

of similarly placed officials w.e.f. 1.1.1984 pending disposal by this Tribunal in OA No. 2109/90. In the background of this it was felt that it would be first proper to find out if adequate number of vacancies was available as on 1.1.1984, we find a similar issue was examined by this Tribunal.

5. We called for the records and found that the said OA i.e. 2109/90 stood decided by the Tribunal on 3.2.1997 and the issues raised therein are identical in nature. It was found in that case that it would be necessary to find out if adequate number of vacancies were available as on 1.1.1984 and if the applicants therein would be adjusted in the said post. If they were, otherwise, found eligible in accordance with the rules and instructions based on the decisions of this Tribunal in the aforesaid OA, we are inclined to dispose of the present OA with the following directions:

"(a) The respondents are directed to verify the number of vacancies available in respect of Head Travelling Ticket Examiners in the Delhi Division as on 1.1.1984. In the event it is found that adequate number of vacancies of Head Travelling Ticket, Examiners were found available on the said date i.e. on 1.1.1984, the applicant should also be adjusted against those vacancies, if he is found eligible for the said post. The eligibility should be considered as on 1.1.1984 only. These adjustments shall be in accordance with the rules/instructions on the subject and in the event he gets adjusted against those vacancies, he shall be granted all the benefits that flow out of it;

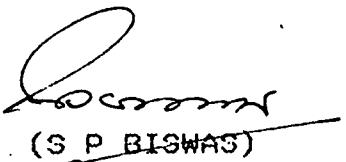
(5)

20

(b) Respondents are further directed to complete the exercise within four months from today and intimate the applicant the result of such exercise; and

(c) We make it clear that our orders shall not be taken as a fresh cause of action by the applicant, nor shall the applicant be absolved of the respondents' allegations of limitation in the matter."

6. The application is disposed of as aforesaid. No order as to costs.


(S P BISWAS)
MEMBER. (A)


11.9.98
(T N BHAT)
MEMBER (J)

{sunil}