



(12)

Central Administrative Tribunal
PRINCIPAL BENCH

Hon Shri Justice D. N. Baruah Vice Chairman
Member

Pre-delivery ORDER in
C.A./O.A. No. 884 of 1994
is sent herewith for consideration.

With regard,
N. Sahai
(N. Sahai)
Member (Admn)
5/8/99.

I agree
D. Baruah
6.8.99

Central Administrative Tribunal, Principal Bench

Original Application No.884 of 1994

(3)

New Delhi, this the 6th day of August, 1999

Hon'ble Mr.Justice D.N.Baruah, Vice Chairman
Hon'ble Mr.N.Sahu, Member (Admnv)

1. Smt. Neelima Sharma
2. Shri D.P.Sharma
both working as Data Entry
Operators, Electronics Data
Processing Centre, Northern Railway,
Baroda House, New Delhi

- Applicants

(By Advocate - Shri B.S.Mainee)

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Financial Adviser & Chief Accounts Officer (Admn.), Northern Railway, Baroda House, New Delhi.
3. The Sr. Accounts Officer (Admn.), Northern Railway, Baroda House, New Delhi.
4. Shri Ranjit Kumar, Sr. Data Entry Operator, E.D.P. Centre, Northern Railway, New Delhi.
5. Shri Nathu Singh, Sr. Data Entry Operator, Northern Railway, Baroda House, New Delhi.

- Respondents

(Official respondents by Advocate Shri R.L.Dhawan &
Private respondents by Advocate Shri P.M.Ahlawat)

O R D E R

By Mr.N.Sahu, Member(Admnv) -

The prayer in this Original Application is for a direction to the respondents to restore the applicants as Senior Data Entry Operators (in short 'Sr.DEO') from the date from which they have been reverted to the post of Data Entry Operators (in short 'DEO') with consequential benefits.

2. We have heard the counsel at length. Both the applicants were promoted as Sr.DEO in the scale of

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Rs.1400-2300 during April/May,1993 as a temporary measure on adhoc basis against vacancies reserved for SC/ST community. This adhoc promotion was for a limited period of 45 days and it was made clear in the order that the applicants shall stand reverted to the DEO grade in the scale of Rs.1350-2200. Respondents nos. 4 & 5 Shri Ranjit Kumar and Shri Nathu Singh were promoted as Sr.DEO on regular basis against the reserved vacancies by an order dated 11.3.1994. The applicants were not reverted as a measure of penalty.

3. According to the respondents there are well laid out rules and instructions regarding reservations and respondents 4 and 5 were promoted correctly. In fact only 3 SC/ST candidates have been promoted against 8 regular vacancies. Respondents 4 & 5 were given promotion with retrospective effect because regularisation took a long time to settle down.

4. The claim of the applicants was that they were promoted in order of their seniority and, therefore, there is no justification for their reversion.

5. The respondents also state that in the brochure for SCs & STs the Railway Board directed that separate rosters are to be maintained for regular promotions, adhoc promotions and purely short term regular vacancies; and for regular promotions all the safeguards for SCs & STs should be implemented. According to the respondents the regular promotions of 8 candidates including 1 ST and 2 SCs as per roster

against points 4 to 11 on 11.3.1994 are valid as per extant rules. In the first place the respondents had no right to appoint any general candidate to a post reserved for SC. Even the Hon'ble Supreme Court had held in State of Haryana Vs. Piara Singh, 1992 (3) SLJ 34 that adhoc employee must be considered for regularisation provided his appointment does not run counter to the reservation policy.

6. According to the applicants the respondents cannot claim reservation separately in adhoc promotions also. Under the latest rules, however, the claims of SC & ST cannot be ignored even in adhoc promotions. The applicants contend that in the case of their other colleagues regularisation was made from the date from which they were promoted on adhoc basis by promoting three persons on 11.3.1994. The respondents have violated the statutory rules because not more than 50% of the total vacancies available on a particular occasion can be reserved for SC/ST.

7. We have carefully considered the submissions. We are of the view that the applicants do not have any worthwhile case. In the first place their promotions were purely adhoc. Such purely adhoc temporary or fortuitous appointment would not confer any right on the appointee to continue in service and to get regularised. Thus, the reversion of the applicants cannot be challenged. The Hon'ble Supreme Court in Vishwas Anna Sawant and others Vs. Municipal Corporation of Greater Bombay and others, 1994 (2) SLJ 153 held that "right to consideration for promotion is

a fundamental right guaranteed to SCs & STs in fulfilment of the mandate under Article 16(1) read with Article 46 of the Constitution to render socio economic justice." We find that on 11.3.1994 five promotions of general candidate, two SC candidates and one ST candidate was made on regular basis against regular vacancies. In fact in 1993-94 no SC/ST was promoted except the three. Even when calculating 50% the total number of posts have to be taken into account as per roster and not vacancies on a particular date. As far as the main grievance of the applicant is concerned, we hold that the reversion cannot be challenged as illegal.

8. In the result, the OA is dismissed. No costs.

N. Sahu
(N. Sahu)
Member(Admnv)

D.N. Baruah
(D.N. Baruah)
Vice Chairman

JKV.