

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 100/94

New Delhi: this the 19th day of July, 2000.

29

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Surinderpal Singh,
S/o Shri Hukam Singh,
Cabin Man,

Northern Railway,
Nanauta Railway Station (UP)
Distt. Saharanpur

.....Applicant.

(By Advocate: Shri G.D. Bhandari)

Versus

Union of India
through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.

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

.....Respondents.

(By Advocate: Shri R.P. Agarwal)

ORDER

Mr. S. R. Adige, VC (A):

Applicant impugns respondents' select list dated June, 1993 (Annexure-A1) for the post of ASM (Rs. 1200-2040 RPS), in which his name does not find mention.

2. Admittedly applicant was appointed on 6.1.77 as a Casual Khallasi in Signal & Telecom. Branch. As per his own averments in the OA he was retrenched in 1982 but later was reengaged in that year. On 12.1.84 he was appointed as a substitute shunting porter in the Operating Deptt. Thereafter he was promoted as a Pointsman on 29.3.87 and as Cabinman on 4.10.91.

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3. The next promotion is to the grade of ASM which is filled up through selection on the basis of written test and viva voce test. Applicant was admittedly called for the written test held on 13.13.93 and upon being successful in the same, qualified for the viva voce test vide respondents' letter dated 5.5.93 (Annexure-A3). However, on the basis of the total marks in the written test as well as viva voce test, applicant was not empanelled as ASM as is clear from impugned letter dated June, 1993.

4. Applicant's contention is that he had been screened for being regularised as a Casual Labourer in 1980 itself along with 1453 others, but respondents declared the result of the screening for only 300 in September/November, 1982 and the result of the remaining 1153 candidates was mala fide not declared. Thereupon they approached the Hon'ble Supreme Court, who by order dated 11.8.86 and 30.10.86 in CMP No. 19990/86 (Annexure-A12) directed that the petitioners in that CMP must be given the same wage scale and benefits as Khalasi of Signal & Telecom. Branch, and they should also be given the benefit of counting actual service towards seniority. Meanwhile he had been granted temporary status w.e.f. 1.1.82 vide order dated 21.9.89 (Annexure-A5). Applicant contends that had the result of the screening test of himself and the 1153 candidates been declared along with those of the 300 candidates whose results were declared in September/November, 1982, he would have been absorbed on 1.1.82 itself, in which case he would have been senior to all the 33 candidates who were

2

31

empanelled by impugned letter dated June, 1993 and would have received sufficient marks on account of seniority to be empanelled as per respondents' criteria.

5. We have considered these contentions carefully.

6. We note that respondents in para 4.4 of their reply state that applicant was appointed as a casual labourer in Signal & Telecom. Deptt. under Construction Organisation which is a separate seniority unit and has no connection with applicant's seniority in Operating Deptt. in open line in which applicant was appointed as a substitute Shunting Porter on 12.1.84. Again in para 3 of respondents' addl. reply it has been stated that applicant worked as Casual Labourer in S & T Deptt. in different spells from 6.1.77 to 14.6.77 and from 18.7.77 to 14.1.83. Thereafter he worked as a casual labourer in Operating Deptt. from 12.1.84 where he was screened for the post of Shunting porter and was placed at Sl.No.2 of merit list dated 12.3.87 (Annexure-A-RIII). Applicant was further promoted as Cabin Man on 4.10.91 and it is only because of screening and seniority in Operating Deptt. that he was promoted as Cabinman and became liable to appear in the selection for the post of ASM in 1993.

7. These specific assertions of respondents have not been denied by applicant in any rejoinder.

8. Under the circumstance we have no reason to doubt that the S & T Deptt. in Construction Line and Operating Deptt. in open line are two distinct and separate seniority units and even if applicant was a party in CMP No.19990/86, the Hon'ble Supreme Court's order dated 30.10.86 in that CMP cannot be construed to mean, (as applicant has tried to construe),

that applicant's seniority as a casual labourer in S & T Deptt. would count towards his seniority as a Substitute Shunting Porter in Operating Deptt. That apart, even if applicant was granted temporary status in S & T Deptt. w.e.f. 1.1.82, there are no materials furnished by applicant to establish that there were sufficient vacancies to absorb him permanently in S & T Deptt. w.e.f. 1.1.82 to entitle him to claim seniority for further promotion from that date.

9. During the course of hearing applicant's counsel had asserted that S/Shri Sureshpal S/o Shiv Karan; Surajpal S/o Shiv Karan and Ved Prakash S/o Kaley Singh were actually junior to applicant in Operating Deptt. and had been illegally empanelled as ASM to applicant's exclusion. We have perused the personal records of the aforementioned 3 individuals with reference to applicant's own personal records and are satisfied that these assertions are not correct.

10. We have also perused the marksheet on the basis of which the candidates were empanelled as per impugned letter dated June, 1993. Applicant has not been able to make out a case to warrant judicial interference in the same. The OA is therefore dismissed. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J) 19/7.

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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