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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

O A.No.1485 of 1994

Dated New Delhi, this the 30th day of ^{August} July, 1994

Hon'ble Shri J. P. Sharma, Member (J)

Hon'ble Shri B. K. Singh, Member (A)

Shri Kultar Singh
S/o Shri Hardev Singh
Guard
Northern Railway
Under Sr. Station Manager
DELHI

... Applicant

By Advocate: Shri B. S. Mainee

VERSUS

Union of India through

1. The General Manager
Northern Railway
Baroda House
NEW DELHI
2. The Divisional Railway Manager
Northern Railway
State Entry Road
NEW DELHI
3. The Sr. Station Manager
Northern Railway
Railway Station
DELHI

... Respondents

By Advocate: None.

O R D E R

Shri J. P. Sharma, M(J)

The applicant is aggrieved by a show cause notice issued to him dated 28.6.94 asking him that his seniority is to be revised and if he has any objection to the same, he should file a representation within one month. The show cause notice shows that the applicant sought mutual transfer with one Shri Balwant Singh Jeet who

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passed suitability test for the post of Guard Grade 'C' held in August, 1994 and was booked for P-3 Course in 1985, but he failed to qualify and was, therefore, reverted from the post of Guard Grade 'C'. He was reverted and posted on ad-hoc/^{basis} pending passing P-3 Course which he qualified in the year 1986 and the result was declared on 31.7.86. He was promoted to Guard Grade 'C' vide office order dated 14.8.86 and he joined his duties on 16.8.86. The seniority of Shri Balwant Singh Jeet, therefore, is to be reckoned from 16.8.86. The seniority of the applicant in Guard Grade 'C' in Ferozpur Division was assigned from 17.11.77. But on account of the mutual exchange of Shri Balwant Singh Jeet, he joined Delhi Division on 20.3.89. He had, therefore, to be assigned seniority of Guard Grade 'C' from the date Shri Balwant Singh Jeet joined after passing the P-3 Course and his promotion, therefore, joining the post of Guard Grade 'C' on 16.8.86. The applicant has been assigned seniority with effect from 23.11.84. The applicant did not wait for the result of his representation and filed this OA on 18.7.94. In any case, the applicant has to file a reply/representation to the show cause notice. The respondents have not passed any adverse order against him.

2. The learned counsel for the applicant argued at length about the merit of the case and also referred to

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a representation by Divisional Secretary of N.R.M.U. dated 26.5.94. He has also referred to a letter of D.R.M.'s Office dated 8th October, 1993 contending that the respondents have already taken a view in the matter as the matter of seniority of the applicant was a item in the P.N.M. Meeting. This memo, of course, goes to show that the applicant joined Delhi Division on 20.3.89, but at that time Shri Balwant Singh Jeet tendered refusal for going to Ferozpur Division on acceptance of the bottom seniority which was agreed to vide letter dated 4.5.89. However, Shri Balwant Singh Jeet joined duty at SSB on 16.8.86 on his promotion to Guard Grade 'C' and formed a mutual exchange with the applicant who was ^{assignment of} due seniority in the cadre of Goods Guard from 16.8.86.

3. We have gone through the various averments made by the applicant in the UA and also the law cited by the learned counsel pointing out that the representation of the applicant would be an eye wash and the respondents ^{would} ultimately reject the same. The applicant is not free to entertain any doubt about the stand taken by the respondents. It is expected that the respondents will follow the rule of seniority according to the instructions already being followed in fixing the seniority. The law

referred to by the learned counsel is totally of different facts. We have also gone through the authorities cited by the learned counsel for the applicant namely, Sankari Pada Mukherjee Vs UOI reported in ATR 1986(1) p.424/^{LAI}Calcutta Bench and R. Calliamorthy Vs UOI of CAT Madras Bench reported in ATJ 1992(1) p.233 and lastly the case of Charan Singh Vs UOI reported in ATR 1986 (2) p.643. In fact, the fact of all these cases are different. Some of the cases are regarding withdrawing a benefit already given and further the show cause notice itself was a decision arrived at. In the present case, the applicant has been asked to give certain particulars of Shri Balwant Singh Jeet that he was reverted having failed in P-3 Course in 1985 and he passed the P-3 Course in the year 1986 and was, therefore, promoted vide order of 16.8.86. The applicant has exchanged the seniority with Shri Balwant Singh Jeet. Shri Balwant Singh Jeet has never challenged his reversion.

4. In the light of the above facts, it is necessary that the applicant should explain in his reply to the respondents as to how the seniority already given to him should be retained. The respondents are not exceeding their jurisdiction nor acting arbitrarily and neither any fundamental right of the applicant is being violated by the show cause notice. This is a matter of

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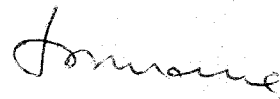
seniority. It shall be open to the applicant to assail judicially if he feels aggrieved by the action of the respondents in the matter.

5. In the circumstances of the case, we find that the present application is totally premature and it cannot be entertained in view of Section 20(1) of the Administrative Tribunal Act, 1985. We are fortified in our view by the Full Bench case of B. Parmeswar Rao Vs. UOI of CAT Hyderabad Bench, reported in Full Bench Judgement Vol.II Page.250.

6. The application, therefore, is dismissed at the admission stage itself with the liberty to the applicant to agitate the matter of seniority if he is so advised and any order adverse to his interest is passed by the respondents. Parties to bear their own costs.



(B. K. Singh)
Member (A)



(J. P. Singh)
Member (J)

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