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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.11/94

New Delhi, this the 6th day of May, 1994.

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER (A).

Shri Bhagwan Dass
s/o Late Shri Ramji Dass,
Chief Telephone Operator,
Northern Railway,
D.R.M's office,
New Delhi R/O 38-8/2,
Shri Ram Road Railway Colony,
Delhi-110054

..Applicant

(By Shri SK Sawhney, Advocate)

Vs.

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

2. Divisional Railway Manager,
Northern Railway,
D.R.M.Office,
Chelmsford Road,
New Delhi.

(By Shri HK Gangwani, Advocate)

..Respondents.

ORDER

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicant was functioning as Chief Telephone Operator in the scale of Rs.1600-2660 with effect from 1-8-82. The next promotion is to the post of Supdt. Telephone Operator (STO) in the scale of Rs.2000-3200. The applicant was promoted to this higher post by promotion order dated 22-12-93 (An.A2) and was transferred to Lucknow Division. This O.A. has been filed against the above said transfer order and for a direction that the applicant should be promoted in Delhi Division where he was already working and against an upgraded post.

2. The case of the applicant is that there was an upward increase in the percentage of posts of S.T.Os due to orders of restructuring which

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were given effect to from 1-3-1993. As per these orders, the number of posts of STOs was increased from 2½% to 4% of the total strength of telephone operators from this date. The applicant states that taking into account the total strength of telephone operators in Delhi Division, there was an increase in the number of posts of the STOs from 2 to 4. In Delhi Division the applicant was the second senior-most person in the feeder grade of Chief Telephone Operator in the scale of Rs.1600-2660 and hence denying him promotion in Delhi Division is illegal.

3. On the other hand, the stand of the respondents is that the posts of STOs have been filled on all railway basis and the integrated seniority of Chief Telephone Operators working in various divisions has been taken into account for the purpose of promotion as STOs. It is a different matter that decentralisation of the posts of STOs has taken place recently in February 1994 but such decentralisation is not relevant to the impugned promotion order issued to the applicant in December 1993 when the posts of STOs were controlled centrally by Headquarters. It has also been explained that Delhi Division had initially been allotted 3 posts in the grade of STO prior to issue of the reclassification orders which are effective from 1-3-93. Out of these, only 2 could be operated and one post was not operated because of court case pending in the High Court where there was dispute of seniority which was decided in November, 1988. However, even prior to restructuring with effect from 1-3-93 there was a total of 6 STOs functioning in Delhi Division. Additional persons who were

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above the allotment for Delhi Division had been brought alongwith posts from other divisions. All these 6 persons are senior to the applicant and were in position in Delhi Division prior to 1-3-1993.

4. With the sanction for restructuring, Delhi Division should have been allotted a total of 4 posts based on 4% of posts for STOs from the total cadre of telephone operators. By order No.754-E/147-A/E-20-2 dated 24-12-93/13-1-94 the General Manager, Northern Railway, allotted a total of 6 posts to Delhi Division by corresponding prorata less distribution in other divisions. At the time when the applicant was promoted in December, 1993 the posts of STOs were still controlled centrally and even after the allotment of 6 posts to Delhi Division there was no further vacancy in Delhi Division and the applicant being junior to the 6 persons already working there had to be necessarily transferred to some other division.

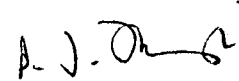
5. Having heard both the counsels, I note that it is not disputed that at the material time when the promotion order was issued to the applicant the posts of STOs were controlled centrally. Hence, the employees of a particular division cannot advance the claim that on promotion as STO, only he should be considered for promotion in that division and no one belonging to any other division could be considered. The applicant has argued that the additional posts allotted to Delhi Division consequent to restructuring cannot be set off against other employees who had already been posted to Delhi Division as STOs. I am not convinced by this. It is admitted that

those who were already working in Delhi Division as STUs were senior to the applicant at the time the latter was promoted as STU and such promotion being controlled centrally cannot confer any right to the applicant that he should be kept in Delhi Division.

6. It was again stressed that some of the seniors in Delhi Division had brought posts from other divisions prior to restructuring and these should not have been adjusted at the time of restructuring. These seniors should have been excluded. I am not convinced by this plea since it is within the discretion of the administration to suitably distribute the posts between various divisions, particularly when the cadre was being centrally controlled. I also find that Delhi Division was given proportionately higher allotment perhaps, to enable the seniors to continue.

7. An argument was advanced that restructuring does not involve promotion and posts got upgraded on 'as is where is' basis and hence the applicant should have been promoted in the same post he was holding. I am unable to appreciate this argument since restructuring has entailed increase in cadre strength in higher posts which have been filled by due process of promotion. In the circumstances of the case, the O.A. is dismissed. No costs.

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(P.T. THIRUVENGADAM)
Member (A).