

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

J.A.NO.1103/94

New Delhi, the 6th day of January, 1995

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

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

Smt. Vimlesh Bhardwaj, Senior Clerk,
R&D Section, General Branch,
Northern Railway Headquarters,
Baroda House, New Delhi.

R/o B-4/B, Ganesh Nagar,
Pandav Nagar Complex,
Delhi-92.

... Applicant

By Advocate: Shri R.L. Bhardwaj

Vs.

1. Union of India,
through the
General Manager,
Northern Railway Headquarters,
Baroda House, New Delhi.
2. The General Manager(P),
Northern Railway Headquarters,
Baroda House, New Delhi.
3. Shri Rajendra Kumar,
Senior Clerk officiating
as Head Clerk, R&D Section,
General Branch,
Northern Railway Headquarters,
Baroda House, New Delhi.
4. Smt. Manju Shukla, Senior Clerk,
R&D Section, General Branch,
Northern Railway Headquarters,
Baroda House, New Delhi,
r/o working Girls' Hostel,
Paharganj, New Delhi.

... Respondents

By Advocate: Shri B.N. Mani

Shri P.M. Ahlawat

O R D E R (ORAL)

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

The applicant, a Senior Clerk in R&D
Branch, General Branch, Northern Railway Headquarters,

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Baroda House has been aggrieved by an order of Respondent No.2 giving promotion to Respondent No.3 in the grade of 1200-2040 retrospectively from 6.4.88 which affected the seniority of the applicant particularly in view of the fact that Respondent No.3 Shri Rajendra Kumar passed the suitability test held on 18.4.91. She is also aggrieved by an order dated 29.10.93 in which the applicant was superseded while Respondent No.3 was given the benefit of special pay of Rs.70/- per month. The applicant has also challenged the impugned order dated 29.4.94 promoting Respondent No.3 as officiating Head Clerk against the existing vacancy.

2. The applicant has prayed for the grant of the following reliefs:-

- (a) Because the order of Respondent No.2 declaring Respondent No.3 as Senior Clerk in the panel of Senior Clerks retrospectively i.e. with effect from 6.4.88, superseding the applicant in the panel of seniority is violative of Articles 14 and 16 of the Constitution of India in view of Supreme Court judgement in Ramendra Singh Vs. Jagdish Prasad - AIR 1984 SC 885.
- (b) Because no notice of supersession of Respondent No.3 to the applicant in the panel of Senior Clerks was given to the applicant at all and it has been done after keeping the applicant in dark to that effect in violation of principles of natural justice as she was never afforded opportunity to explain her case.
- (c) Because the orders of Respondent No.2 at Sl.No. 6 of Notice dated 29.10.93 by which Respondent No.3 has been allowed the benefit of special pay of Rs.70/- per month and Sl.No.2 of Notice dated 29.4.94 by which the Respondent No.3 has been allowed to officiate as Head Clerk in the existing vacancy are illegal, biased, arbitrary, discriminatory.

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and unsustainable in law as no principle of law or equity has been followed by Respondent No.3 in violation of constitutional provisions of Article 14 and 16.

- (d) Because the Respondent No.3 was appointed on 03.04.1986 as Clerk in the grade of B.260-400 in Handicapped quota and now he has been placed by Respondent No.2 in Scheduled Caste quota, is a conspiracy to defeat the seniority of the applicant.
- (e) Because the Respondent No.2 has no correct, proper and legal reply at all to the representations made by the applicant dated 9.11.93 and 19.11.93 and hence on 12.4.94 only the vague and unsustainable reply has been furnished by Respondent No.2.
- (f) Because the competency of the applicant is unquestionable and she has a good office record.
- (g) Because the applicant appear in the examination of Senior Clerk directly in 'Graduate quota' held on 19.9.82 by the Railway Recruitment Board, Allahabad, and the panel of qualified candidates was furnished by the said Board to the Respondent No.2 on 3.12.85, but no action was taken on the said panel of selected candidates by Respondent No.2 since a long and only on 14.4.88 the applicant joined in 'General Branch' as Senior Clerk and is still working therein efficiently as Senior Clerk. On the other hand, the Respondent No.3 joined the General Branch on 3.4.86 as Clerk grade B.260-400 in 'Handicapped quota' who qualified the suitable test for Senior Clerk on 18.4.91. Under these circumstances, the retrospective seniority of Respondent No.3 is violative of the principles of natural justice and hence liable to be set aside.

3. A notice was issued to the respondents and Respondent No.3 Shri Rajendra Kumar through Shri P.M. Ahlawat filed the reply contesting the reliefs prayed for by the applicant. The applicant has also filed the rejoinder to this aforesaid reply.

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4. Shri B.N. Mani appears for the official respondents and stated that the relief prayed for by the applicant has since been considered and it was found out that by an erroneous order Respondent No.3 has been considered and promoted as Head Clerk. The respondents now granted the relief to the applicant, withdrawing the promotion order in favour of Respondent No.3. The learned counsel has also placed before us a copy of the letter addressed to him dated 4.1.95 and the learned counsel for the applicant has perused that letter and he is satisfied to the extent that the grievance prayed in this application has been duly considered and allowed by the respondents themselves. In view of this, this application has become infructuous.

5. The learned counsel for Respondent No.3, however, pointed out that he has a surviving grievance against the order ^{however} no relief can be given to Respondent No.3. But if he is still aggrieved, he is free to assert his right by assailing any order adversely affected according to law.

6. The present application is therefore dismissed as infructuous. The communication between the learned counsel and the department is taken on record.

(B.K. SINGH)
MEMBER(A)

J. P. Sharma.
(J.P. SHARMA)
MEMBER(J)

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