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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1597/2000

New Delhi, this day the 21st September, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Shri Jayant Singh,
S/o Sri Baboo Ram.
Welder Gr.I,
Under Chief Permanent-way inspector,
Northern Railway,
Hazarat Nizamuddin
(By Advocate : Shri B.S. Mainee) ----- Applicant

Versus

Union of India through
1. The General Manager,
Northern Railway, Baroad House,
New Delhi
2. The Divisional Railway,
Northern Railway,
State Entry Road,
New Delhi
3. The Assistant Engineer,
Northern Railway,
Tughlakabad,
New Delhi
(By Advocate : Shri O.P. Kashatriya) ----- Respondents

O R D E R

BY SHRI S.A.T. RIZVI, MEMBER (A) :

Aggrieved by respondents' letter dated 24.5.2000 (Annexure A-1), the applicant has filed the present OA praying for a direction to the official respondents to reinstate him as a Master Craftsman (MCM) with all consequential benefits. The respondents seek to contest the OA and have filed a reply. A rejoinder has been filed by the applicant thereafter.

2. We have heard the learned counsel on either side and have also perused the material placed on record.

[Signature]

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3. The applicant's claim is that by the impugned letter of 24.5.2000, he has been reverted from the post of MCM in the pay grade of Rs.5000-8000 to the post of Welder Grade-I in the pay grade of Rs.4500-7000/-. We have perused the aforesaid letter and find that the same cannot be said to be a reversion order. The aforesaid letter has been addressed to the Assistant Engineer (A.E.N), Northern Railway, Tughlakabad, New Delhi, only in order to find out from him as to whether the applicant has been promoted as MCM. The letter also seeks to know from the A.E.N. the authority by or under which the applicant has been promoted, if at all. The letter further gives a direction to the A.E.N. to revert the applicant if he has already been promoted. After perusing the aforesaid letter, we have proceeded to find out for ourselves whether the applicant has indeed been promoted to the post of MCM at any point of time. The outcome of the effort made by us in this regard is reported in the following paragraphs

4. Sr. D.P.O's letter dated 17.9.1999 (Annexure A-5) refers to the following item concerning implementation of a certain decision taken by PNM:

"Item No.55 - Non implementation of PNM decision in the case of Sh. Jaint Singh, Sr. Welder/CPWI/NZM. The issue was being taken up. DSE/C to have work charged post created so that the case of promotion of Sh. Jaint Singh can be considered against the workcharge post".
(emphasis supplied)

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5. The aforesaid letter is followed by AEN, Tughlakabad's letter dated 15.11.1999 which provides as under:

"In connection with above, please send revised one TLA post of Welder in grade Rs. 5000-8000 to post Sh. Jaint Singh as MCM/Welder under AEN-TKD." (emphasis supplied).

This letter (Annexure A-6) is addressed to the Sr. S.E. (P.way) NZM. Then there is the letter dated 22.11.1999 (Annexure-7) which refers to the aforesaid letter of 15.11.1999 and provides as under:

"In connection with the above one TLA post of Welder in grade 5000-8000 to post Sh. Jayant Singh as MCM Welder has been revised 15.11.99 and onward. This is for your information and fixation of pay in grade 5000-8000 (RPs)" (Emphasis supplied)

This letter has been addressed to the DRM.

6. A careful perusal of the aforesaid letters exchanged between the various authorities in the official respondents' set up clearly shows that in compliance of a certain decision taken in the PNM, an attempt has successfully been made to create a work charged post in the pay grade of MCM in order to accommodate the applicant. Further, the aforesaid post appears to have been created as a TLA post. Clearly, therefore, the respondents have not created a regular post to accommodate the applicant. It is also clear that the respondents have not proposed to place him in the pay grade of MCM by way of regular promotion. No order seems to have been passed in

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continuation of the aforesaid letters actually promoting the applicant as MCM against a work charged post or a post created on TLA basis. Thus, what we find is that even though the official respondents have gone through the motions for placing the applicant in the MCM grade of Rs.5000-8000/-, no clear order has been issued placing him in the aforesaid grade by way of promotion against a work charged post or a post created on TLA basis. Since no promotion has been made, the question of reversion will also not arise. The grievance raised in the present OA is, therefore, without any basis. The present OA accordingly deserves to be dismissed on this ground alone.

7. In support of the applicant's seniority based claim, the learned counsel appearing on his behalf, has placed on record provisional seniority lists issued in June 19991 (Annexure A-2), July 1991 (A-3) and on 7.7.1999 (A-4). We have perused these lists and find that all of them are provisional seniority lists and, therefore, cannot be relied upon for deciding the question of applicant's promotion to the post of MCM. The applicant has, however, filed representations seeking his promotion, in June 2000 and thereafter again in July 2000. There has been no response to these representations, however. Admittedly, therefore, the applicant is yet to be promoted to the MCM grade.

8. The learned counsel appearing on behalf of the respondents has not disputed the issuance of the

aforesaid provisional seniority lists. According to him, the suitability of the applicant for promotion to the MCM grade (Rs.5000-8000) has already been tested on 11.1.2000 and he was found suitable for promotion (A-8), and it is the DRM who will promote him to the post of MCM. The applicant has not been promoted yet (by the DRM) however. On the other hand, the applicant has been promoted to the posts of Welder Grade-II and Welder Grade-I by an authority not competent to promote him to the aforesaid posts. He has further submitted that the NRMU has, in February 2000 raised the issue of seniority of one Shri Charan Singh, Welder, who is stated to be senior to the applicant in the post of Welder Grade-III, but, despite that position he has not been promoted to the post of Welder Grade-I. The respondents have also discovered that an anomaly existed in the seniority lists issued from time to time, and, in order to resolve the issue of seniority, a Committee of Officers has been constituted to examine the facts and circumstances in this regard. The report of the said committee is, according to him, still awaited. However, it has been found that as many as three employees who had been working in the post of Welder Grade-III are, prima facie, senior to the applicant in that grade. Accordingly, a tentative seniority list prepared at the Divisional level (Annexure R-1) clearly shows that insofar as the post of Welder Grade-III is concerned, the applicant is junior to three others. The aforesaid seniority list, according to the learned counsel, is also provisional and the

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dispute regarding seniority will be finally settled only after the aforesaid Committee of Officers has submitted its report. The question of the applicant's regular promotion to the MCM grade cannot, in the circumstances yet arise, even though as already stated, he has been found suitable.

9. Having regard to the facts and circumstances discussed in the preceding paragraphs, we are inclined to dismiss the OA as being without merit. We do so by this order. We also find it just and proper, at the same time, to direct the respondents to settle the matter regarding the applicant's seniority finally as expeditiously as possible and, in any case, within three months from the date of receipt of a copy of this order. Needless to add that the applicant's claim for promotion to the regular post of MCM will be considered thereafter in accordance with the relevant Recruitment Rules and depending on the number of regular posts available for the purpose. Insofar as the placement of the applicant in the pay grade of MCM against a work charged post or a post created on TLA basis is concerned, we will leave it to the official respondents to deal with the matter in the manner deemed fit by them having regard to the observation^S contained in this order and the rules and instructions relating thereto.

No costs.

S.A.T. Rizvi
(S.A.T. RIZVI)
MEMBER (A)

/pkr/

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
VICE CHAIRMAN (J)