

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2502/2000

New Delhi this the 10th day of July, 2001

Hon'ble Mr. V.K. Majotra, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

Shri Jaspal Singh Dhanjal,
S/o Shri S. Balram Singh Dhanjal,
Junior Engineer-II (J.E.),
Under D.S.T.E.,
Northern Railway,
Moradabad.

-Applicant

((By Advocate: Mrs. Meenu Mainee)

Versus

Union of India
through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.

-Respondents

((By Advocate: Shri R.P. Aggarwal)

ORDER (Oral)

By Hon'ble Mr. V.K. Majotra, Member (A)

The applicant was appointed as Apprentice line man in the grade of Rs. 110-180 (As) w.e.f. 12.5.72 of Moradabad Division. As per channel of promotion to lineman TCI grade-III (redesignated as Jr. Engineer.II (Tele), he was considered for promotion against 30% quota and was selected on ad hoc basis against reserved post (S.C. Point) subject to the condition of approval of dereservation by competent authority w.e.f. 5.9.1989. The case of the applicant is that the respondents did not take any action towards dereservation of the post and he continued ^{to} ~~continuously~~ on ad hoc basis till he was selected on a regular basis on 13.9.96 and was appointed against the

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promotion post w.e.f. 18.9.96. According to the applicant, service rendered by him on ad hoc basis as TCI-III was not considered on his regular selection in 1996. He learnt about this through Annexure A-1 whereby his seniority was fixed on the basis of his promotion on a regular basis i.e. 18.9.1996. Thereupon, he made a representation on 7.12.99 (Annexure A-11) which has remained unrepplied. The applicant has sought direction to the respondents to assign him correct seniority of TCI Grade.III/Junior Engineer-II from 5.9.1989 when he was promoted on ad hoc basis with all consequential benefits.

2. In their counter reply, the respondents have stated that the applicant had been promoted on 5.9.1989 purely on ad hoc basis subject to dereservation of the post. Since the same post has not been reserved, he was again selected in the panel dated 13.9.96 against a clear vacancy. The respondents have also taken a plea of limitation, as vide Annexure A-10 dated 8.9. 98. Applicant's request for regularisation from the date of ad hoc promotion had been rejected on 8.9.98. However, he had not come up against that within the prescribed time limit.

3. We have heard the learned counsel of both sides and perused the material on record.

4. Smt. Meenu Mainee, learned counsel of the applicant stated as respects the point of limitation that Annexure A-10 dated 8.9.98 whereby applicant's request for regularising him from the date of ad hoc promotion was rejected had not been communicated to the applicant.



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Non-communication of Annexure A-10 dated 8.9.98 to the applicant is clear from the document. Thus, the objection of limitation of the respondents is not maintainable.

5. Mrs. Meenu Mainee brought to our attention JT 2000 (4) SC 196 T. Vijayan & Ors. Vs. Divisional Railway Manager & Others wherein it was held that ^{on the} ad hoc promotion when made in accordance with the service rules, the promotees would be entitled to reckon the period of ad hoc service towards their seniority. She further referred to order dated 25.1.2001 in OA-1649/97 Mohinder Singh & Others Vs. Union of India and another wherein the Principal Bench of Central Administrative Tribunal had allowed the OA directing the respondents to re-determine the seniority of the applicants in Class-III posts of LDC/MCCs taking into account their respective ad hoc officiation in the said posts. The learned counsel of the respondents stated that the period of ad hoc promotion can be reckoned towards seniority only if the promotion had been made as per rules. According to him as in the present case, the applicant had been promoted conditionally and the condition of promotion having not been fulfilled ultimately inasmuch as that dereservation of the related post had not been ordered by the respondents, the service rendered by the applicant on ad hoc promotion cannot be taken into account for purposes of seniority. The ratio in the matter of T. Vijayan and others (supra) is clear that the period of ad hoc promotion has to be considered for computing seniority only if ad hoc promotion has been made in accordance with the service rules. We are in-agreement with the learned counsel of the respondents that the ad hoc promotion of the applicant in 1989 was made subject to dereservation of the related post.

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The learned counsel of the applicant has also agreed that respondents had not taken any action for dereservation of the post. Be that as it may, dereservation which was the condition of ad hoc promotion of the applicant, having not been effected, continuation on ad hoc promotion was certainly not in accordance with the service rules. Thus service rendered by the applicant on ad hoc basis as TCI-III cannot be taken into account on applicant's regular selection as TCI-III.

6. Having regard to the reasons recorded and discussion made above, we do not find merit in the present OA which is dismissed accordingly. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

cc.