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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 793/2000

New Delhi, this the 3rd day of September, 2001

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Shri R.K.Saroj
S/o Shri R.S.Saroj
Traffic Inspector
Northern Railway
Ambala Division
Sirhind.

(By Advocate Shri B.S.Mainee)

...Applicant

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary /
Ministry of Railways
Railway Board
Rail Bhawan
New Delhi.
2. The General Manager
Northern Railway
Baroda House
New Delhi.
3. The Divisional Railway Manager
Northern Railway
Ambala Cantt.

(By Advocate Shri Rajender Khatter)

...Respondents

O R D E R

By Hon'ble Shri Govindan S. Tampi, Member (A)

Applicant in this OA challenges the order No. 220E/40/Pt.I/PIA/UMB dated 23-11-1998, passed by the Sr. D.P.O., Northern Railway, Ambala Cantt proposing to revert him to his substantive post with retrospective effect.

2. MAs No. 2027 & 2028/2000 were not pressed as the OA itself was taken for hearing and disposal.

3. Heard Shri B.S.Mainee, learned counsel for the applicant and Shri Rajinder Khatter, learned counsel for the respondents. Also perused the documents including the original records produced by

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the respondents, as directed by us, during the course of oral submissions.

4. Shri R.K.Saroj, a S.C.Candidate, selected by Railway Service Commission, Allahabad as Traffic Apprentice in July 1981, after completion of 3 years training in Chandausi - as Asstt. Station Master/Asstt. Yard Master/Section Controller/Traffic Inspector, - was appointed as A.S.M. on 21-7-1984. Though his preference was for the post of Section Controller and he represented for the same, he was told that the posting was in tune with availability of vacancies, and that his option had not been obtained. The applicant who was originally appointed in the grade of Rs. 455-700/- / Rs. 1400-2300/- was promoted on 21-2-1993 to the grade of Rs. 550-750/- - Rs. 1600-2660. On 25-6-1993, 48 officers of the grade of Rs. 1600-2660 was promoted as Station Supdt./Deputy Chief Yard Master/T.I. etc in the grade of Rs. 2000-3200/- by a modified selection procedure, among whom were more than twenty his juniors, while the applicant was not so promoted. Following his representation on 27-9-1993, he was also placed on the provisional panel on 22-12-1993, interpolating his name in the list of 25-6-1993. However, in the process, four of his juniors who joined as apprentices much later were placed above him. On his making a fresh representation his position was changed from 49 to 25A, and he became the senior most Traffic Asstt. in Ambala Division. He was promoted as Traffic Inspector in the grade of Rs. 2000-3200/- (Rs. 6500-10500/-) on 17-2-1994, and he was placed at 2 in the Seniority List of T.Is on 28-1-1997. On 19-8-1998, he was elevated as T.I. in the grade of

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Rs. 7450-11500/- . In this letter, it was, however, indicated, that he could be reverted depending upon the decision of the seniority of R.K.Bhasin. This was incorrect as the latter was his junior by five years. It was also improper as in terms of Railway Board's P.S.No.11450, if posts were less than 15 (in this case it was only 4) the first post was to be filled by S.C.candidate. In the meanwhile, following some complaint against the wrong assignation of seniority to R.K.Bhasin, rectification of the irregularity was ordered on 28-7-1998 by the Railway Board, leading to the issue of the impugned S.C.notice dated 23-11-1998 to the applicant by Ambala Division. Hence this OA.

4. The impugned orders are challenged by the applicant on following grounds :-

(i) he had not at any stage represented for promotion at par with Bhasin but had only protected against his not being placed in the panel in the scale of Rs. 2000-3200/- when 23 of his juniors were empanelled.

(ii) his subsequent placement in the panel but below his juniors was represented against. Though he had requested for the supply of relevant documents they were not supplied, which were given to a few others.

(iii) the respondents were seeking to revert him from the post of T.I. in the grade of Rs. 7450-11500/- on incorrect facts.

(iv) he was always working as ASM and his promotion as T.I. was on the basis of his seniority, against roster point No.1 in terms of Railway Board's P.S.No.11450.

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(v) the applicant was subject to hostile discrimination though his promotion had been fully in accordance with the rules and instructions.

In the above circumstances, the applicant seeks to intervention of the Tribunal to vindicate his seniority and honour.

5. In reply to the above, the respondents point out that the application was misconceived, has no merits and is severely hit by limitation. Letter dated 28-7-98 in the letter of the Division relating to the reversion of R.K.Bhasin, in relation to whose promotion the applicant was earlier promoted. The applicant was not considered for promotion to the grade of Rs. 2000-3200/-, as he was junior most in the lower grade. Applicant's posting as Traffic Inspector in the grade of Rs. 7450-11500/-, had to be cancelled, as he had been given promotion as T.I. in the grade of Rs. 2000-3200/-/ 6500-10500/- in relation to R.K.Bhasin, whose promotion, on being found wrong, was nullified. R.K.Bhasin's further promotion has been against 30 % LDCE. The applicant's earlier promotion order was also had stated that it was subject to revision on Headquarter's directions. As on 1-3-1993, the date of upgradation, he was working in the grade of Rs. 1400-2300/- question of his promotion to the grade of Rs. 2000-3200/- did not arise. It was only by a mistake he was given promotion to Rs. 1600-2660/- and Rs. 2000-3200/- with retrospective effect in comparison to R.K.Bhasin, and once Bhasin's incorrect promotion was cancelled, applicant also did not have any case, as their

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promotions were interlinked. Respondents also point out that adequate opportunity/time has been given to the applicant before he was reverted on 6-4-2000.

6. In his rejoinder as well as the oral submissions through Shri B.S.Maine, learned counsel, the applicants points out that linking his promotion with R.K.Bhasin, his junior by as many as five years was incorrect and his promotion has been on the basis of Railway Board's P.S. No.11450 and his status of being a SC candidate and he could not, therefore, have been reverted. Shri Khatter, learned counsel on behalf of the respondents, counters the same and states that they had acted legally and correctly.

7. We have carefully considered the matter and we observe that the preliminary objections have no merit. The applicant in this case contests the move of the respondents to revert him retrospectively as illegal while the respondents state that the same was inevitable, as his promotion was interlinked with that of R.K.Bhasin which had since been cancelled. It is not disputed that the applicant was recruited originally as Traffic Asstt. in July 1981 and became on completion of training, Asstt. Station Master, on 21-7-1984 and a Station Master on 21-2-1993. However, on his being denied the promotion of Station Supdt./Dy. Yard Master/T.I., which was granted to as many as 48 individuals including over twenty of his juniors. on 25-6-1993, he made a representation, on 27-9-1993, whereafter on 22-12-93 he was also promoted, but with a lower rank which was rectified on 7-3-1994. He was reassigned seniority at 25A above R.K.Bhasin. This led to his further promotion as T.I. and thereafter as T.I. in the senior grade; in his

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turn, which is being sought to be changed on the ground that R.K.Bhasin in comparison to whose promotion he was earlier promoted, has been reverted; This does not stand to reason. Applicant's claim that he belongs to 1981 batch of Traffic Apprentices, in comparison to R.K.Bhasin and others who joined in the capacity a few years later is not disputed. Unless and until the respondents show that someone senior to the applicant has been reverted or has lost places, the question of the applicant's reversion does not arise. The applicant, further belongs to Scheduled Caste, category, which enjoys certain constitutional protection. Here not only that he is denied such privilege, guaranteed by Railway Board's own PS No.11450, but is also made to lose even what is his right. This cannot be permitted. Even if the applicant has originally complained against the earlier promotion among others of R.K.Bhasin, his junior, it does not follow that when Bhasin is reverted the applicant's promotion also has to follow suit. There is no sanction in law for such an arrangement. The proposed action of the respondents to revert the applicant, on the ground that R.K.Bhasin's promotion was being cancelled cannot stand the test of judicial scrutiny, as the applicant's case could not at all have been linked up with the case of Bhasin. It is also seen that letters dated 28-7-1998 issued by Railway Board nowhere states that the promotion or placement orders in connection with the applicant was wrong. That being the case. The proposed reversion of the applicant has to be quashed and set aside.

8. In the above view of the matter, the

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application succeeds and is accordingly allowed. The impugned order No.220-E/40/Pt.I/P-IA/UMB dated 23-11-1998 issued by Sr. DPO, Northern Railway, Ambala Cantt reportedly on Railway Board's letter dated 28-7-98, is quashed and set aside and the respondents are directed to desist from taking any action to revert the applicant from the post which he is holding at present. Interim relief granted on 4-5-2000 and continued thereafter is made absolute. No costs.

S. Raju

(Shanker Raju)
Member (J)

(Govindan S. Tampi)
Member (A)

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