

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(7)

O.A. No. 1623/1989.

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DATE OF DECISION 1.8.1991.

Shri R.C. Sharma	Petitionerx Applicant
Shri B.S. Mainee	Advocate for the Petitioner(s) Applicant
Versus	
Union of India	Respondent
Shrim M.L.Verma	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, VICE CHAIRMAN

The Hon'ble Mr. I.P. GUPTA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

( Delivered by Justice U.C.Srivastava,  
Vice - Chairman(Judicial) )

The applicant who joined Central Railways, Bombay Division as a Commercial Clerk on 20.2.1976 has approached this Tribunal for directing the respondents to assign him the seniority in the cadre of Ticket Collector from the date, from which, he was initially appointed as Commercial Clerk in Jhansi Division on Central Railways; and the respondents be directed to give him further promotions in accordance with his seniority; and his pay in higher grades may also be fixed.

2. The applicant joined Jhansi Division at Mathura

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Junction as a Commercial Clerk w.e.f. 28.3.1976 and had applied for change of category from the post of Commercial Clerk to the post of Ticket Collector vide his application dated 17.1.1977, and was informed after 3 years that his request had been accepted and he was posted as Ticket Collector at Mathura Junction.

3. From the reply given by the respondents, it appears that after his option for change of category, his name was registered for the same. And when his turn came, he was posted as Ticket Collector vide Order dated 23-1-80 but he joined as Ticket Collector post only on 9-8-80. Now, in the month of June, 1980, the applicant had sent a letter to the respondents for cancellation of his option for joining Ticket Collector's cadre owing to his family circumstances and had requested that he should be allowed to stay at Mathura where he was posted in those days as Parcel Clerk. This conditional request was not accepted, and the applicant was asked to resume duty as Ticket Collector which he did. He was relieved of his duties on the ground that he was surplus in the Parcel Depot. According to the applicant, he was not the juniormost Parcel Clerk.

4. According to the respondents, he was surplus in the Parcel Depot at Mathura Junction on account of his option to the change of category as Ticket Collector which was accepted and he was posted as Ticket Collector at his own request. According to the applicant, the respondents were bound to give him seniority from 28.3.76, instead of at the bottom of Ticket Collector's grade on the date of transfer to that grade. The applicant's grievance is that he is entitled to the seniority as Commercial Clerk w.e.f. 28.3.1976.

The respondents have stated that in view of his application for change of category, he cannot be allowed to

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get original seniority and his conditional prayer for cancellation thereof made months after the passing of the transfer order will be of no use. The respondents have stated that the applicant cannot be allowed to get seniority from the date he was posted as Commercial Clerk. Had he not made request for change of category and was transferred by the Railways, he would have been entitled to the seniority from the year 1976. However, in the instant case, it is seen that prior to joining as Ticket Collector, as indicated, he had expressed his desire to withdraw the option which was given by him earlier and on 24.7.80 also he had categorically request for cancellation of his option for change to Ticket Collector's grade and well before joining as Ticket Collector. The respondents may, therefore, consider his prayer in accordance with the rules for assignment ~~and~~ <sup>of</sup> ~~the~~ <sup>in</sup> the seniority.

5. Let this matter be considered by the respondents in accordance with the rules within a period of three months from the date of communication of this Order.

There will be no order as to costs.

I.P.Gupta

(I.P.GUPTA)  
MEMBER (A)

U.C.Srivastava

(U.C.SRIVASTAVA)  
VICE CHAIRMAN

1.8.1991.

/PKV/