

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH NEW DELHI

O.A. No. 948/1989

New Delhi this the 16th Day of November, 1993

The Hon'ble Mr. N. V. Krishnan, Vice Chairman (A)

The Hon'ble Mr. B. S. Hegde, Member (J)

Shri Jagdish Prasad,
as Travelling Ticket Examiner,
Northern Railway, Najibabad
R/O Moh. Lajpura-Hari Kiratpur,
Distt. Bijnor (U.P.)

... Applicant

(None for the applicant)

Versus

1. Union of India through
Northern Railway, Baroda House,
New Delhi
2. The Divisional Rly. Manager,
Northern Railway,
Moradabad
3. The Railway Recruitment Board,
Allahabad.

... Respondents

(By Advocate Sh. O. N. Moolri)

ORDER (ORAL)

(Hon'ble Sh. N. V. Krishnan, Vice Chairman (A))

Applicant who is a Travelling Ticket Examiner under the second respondent (D. R. M. Moradabad) has sought the following reliefs in this O.A.

- i. That this honourable Tribunal may be pleased to direct the respondents to assign him the seniority in the category of Ticket Collector from the date of his appointment and given him further promotions on the basis of the said seniority.

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- ii- That this honourable Tribunal may be further pleased to direct the respondents to give fixation of pay in accordance with the seniority asprayed for above and arrears.
- iii- Alternatively this honourable Tribunal may be pleased to direct the respondents to return the applicant to the post of office Clerk restoring his seniority as if he has not been changed from office Clerk to Ticket Collector.

2. In 1971, the Railway Service Commission issued an advertisement for recruitment of Ticket Collectors for the Northern Region which was reserved for SC/ST. The applicant, a Scheduled caste, applied for the post. He states that he passed the written test and appeared in the interview. He was qualified for the post of Ticket Collector. Instead, the applicant was given an offer of appointment only as an Office clerk, and not as Ticket Collector.

3. He accepted the offer of appointment as office clerk and joined the Moradabad Division. He then sent a representation on 15.11.1972 (Annexure A-3) for change of category from office clerk to Ticket Collector, on the ground that he had applied for appointment only, as a Ticket Collector and was also selected as such. The representation// finally rejected by the Annexure A-10 dated 5/8-9-73 of the respondent stating that the respondents have nothing to add to their letter dated 5.2.73. A copy of the letter dated 5.2.73

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with
is not on record. He persisted/his representations
including one on 24.4.76 to the Deputy Hon'ble
Minister for Railways(Annexure A-14).

4. The applicant then sent a representation on
19-1-76(Annexure A-17) requesting for the change of
category/on the ground that the Railway Board has
decided that these posts will be filled up only
by S.C.candidates. This request was considered
vide Annexure A-18 order dated 29.7.80 of D.R.M.,
Office Moradabad. This order relates to change
of category and appointment of 11 persons, including
the applicant as Ticket Collectors. The applicant's
name is at serial No.9. It is made clear that this
was done on the request of the persons named,
therein for change of category and is made on the
condition that they would be assigned bottom
seniority.

5. The applicant is aggrieved by this decision
to give him bottom seniority. The applicant sent
representation vide dated 26.6.81(Annexure A-19)
stating that he was aggrieved by being assigned
the bottom seniority. He also stated that if the
appropriate seniority could not be given to the
applicant, he should be sent back to his parental

Electric Branch, in D.R.Ms office, Moradabad on his original seniority, where he was confirmed by the order dated 14.5.76. The Divisional office inform the station Master, Najibabad on 23.3.92 (Annexure A-20) that if he wanted a category change to the post of clerk, he should apply for it accepting bottom seniority.

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This was directed to be conveyed to the applicant.

The applicant then sent the Annexure A-21 representation dated 29.2.88 (Annexure A-21) requesting for seniority to be fixed as Ticket Collector from 6.10.72.

6. As no reply was received this O.A. has been filed seeking the relief mentioned in para (1). The application reveals that the impugned order is a letter dated 23.6.88 from the D.R.M., Moradabad (Annexure A-1) addressed to Sh: Sukhan Singh, MLA, Najibabad. He was informed therein that the applicant was appointed as Ticket collector on 18.9.80 on his own request for change of category from clerk on bottom seniority.

7. The respondents have filed reply stating that the OA is barred by limitation. On merit, it is stated that the applicant never passed the

examination held, to the post of Ticket Collector. He was, therefore, appointed only as an office clerk. It was on his request that he was appointed as Ticket Collector in bottom seniority. Therefore, he cannot claim that he should have given seniority in the Grade of Ticket Collector from the date ~~he joined the post of Office Clerk~~

~~that~~

8. It is clear/in so far as the applicants contention that he should have been selected for the post of Ticket Collector is concerned, it ~~is~~ for contention is now barred by limitation. ~~First~~, the cause of action arose when he was appointed as clerk and not as Ticket Collector. ~~that~~ was on 15.11.72.

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9. The next question is whether the applicant is entitled for any consideration in regard to seniority as Ticket Collector. It is admitted by the applicant himself that he had applied for the post/ticket collector by change of category, even accepting bottom seniority as is mentioned in Annexure A-17. As that request was not considered, he prayed that he should be appointed as Ticket Collector in terms of the Railway Board orders dated 26.7.75. It is in response to this request that the

Annexure A-18 order was passed on 29.7.80, clearly specifying that the applicant was given bottom seniority in the grade of Ticket Collector. ^{if} of the applicant any grievance in this regard he should not have accepted that post and he should have sought appropriate legal remedies in time. Not having done so, it does not lie in the mouth of the applicant to contend that he should be given seniority from the date he joined as a clerk in the grade of Ticket Collector. We are of the view that the objection on ground of limitation is well taken. The applicant has also no case on merit.

10. Lastly, regarding the prayer for repatriation as Office clerk, the respondents are prepared to accept his request provided he applies for it on the condition of bottom seniority in that category also. As the applicant has not responded to this offer, he can claim no relief.

11. In the circumstances, we find no merit in the O.A. Accordingly, we dismiss it.

Hegde
(B.S. Hegde)

Member(J)

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(N.V. Krishnan)

Vice Chairman(A)