

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

C.A. 961 of 1988.

Date: 2--6--1989.

Shri Amir Chand. Applicant.

Vs.

Union of India & another. .. Respondents.

For the Petitioner: Shri B.R.Sharma.

For Respondents: Shri S.N.Sikka.

CORAM:

Hon'ble Shri Justice Amitav Banerji, Chairman.

Hon'ble Shri B.N.Jayasimha, Vice-Chairman.

(Judgment of the Bench delivered by
Hon'ble Mr. B.N.Jayasimha).

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The Applicant who was working as a Booking Clerk in the Northern Railway has filed this application seeking a direction to the Respondents to pay him the pay attached to the post of Booking Clerk for the period he worked as Booking Clerk.

The Applicant joined service as Gate-keeper on 30--5--1975 in Group "D" Post. By an Order dated 8--3--1985 issued by the Divisional Personnel

Officer, Firozpur, he was posted as Goods Clerk which is a Group "C" Post. He joined the post of Booking Clerk and continued to work till 10--5--1988 when the post of Booking Clerk was filled by a regularly selected direct recruit, one Shri G.L.Meena and the applicant was reverted to the post of Gatekeeper. The Applicant contends that he worked as Booking Clerk continuously on an ad-hoc basis for more than 18 months and without following the proper procedure, he could not have been reverted. He also contends that he had qualified in the Departmental Examination both written and Viva/^{voce} held in January, 1987 to fill the 33-1/3% quota reserved for promotion to Group "C" from Group "D". In the select list published on 17--2--1987, the Applicant's name was shown as S.No.9. However, the respondents published another list on 27--7--1987 omitting the name of the Applicant, without any reason. Further, the list published on 27--7--1987 includes names of persons who had neither appeared or qualified in the written/ Viva ^{voce} Examination. The Applicant

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also says that after he was appointed as Ad-hoc Booking Clerk on 15-5-1985, he was given the pay of Booking Clerk till December, 1985 and the pay attached to this post was not paid to him from January, 1986 to 10-5-1986 on which date he was reverted to the post of Gateman.

^{Issue 6}
The Applicant prays for ~~a~~ directions to the respondents (1) to promote him regularly to the post of Booking Clerk in accordance with select list dated 17-2-1987; (2) to pay the salary as applicable to the post of Booking Clerk from January, 1986 and (3) to grant any other relief as considered fit.

The Application was admitted only in respect of reliefs (2) and (3). In regard to relief (1) it was noted that the Applicant had not exhausted the alternate remedy viz., submitting a representation against the orders of reversion and therefore the Application could not be entertained in respect of this relief. It was observed that it was open to the Applicant to make representation to the Respondents, if he so desired.

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The point for consideration is, therefore, "whether the Applicant is entitled to claim the salary attached to the post of Booking Clerk from January, 1986 to 10-5-1988?" The Respondents while admitting that the Applicant had been posted as Ad.hoc Booking Clerk from 15-5-1985, state that he was reverted to his substantive grade in Group "D" by the order of D.P.O., in Notice No.757E/179-PIA dated 5-12-1985. The Applicant had therefore worked as Booking Clerk from 15-5-1985 to 5-12-1985 i.e., for a period of six months 21 days only. The Order dated 5-12-1985 reads as follows:

"Sub: To revert Class IV Staff (Transp. & Commercial, Non Technical) who are put to work as GCS, PCS, BC's and TCR's purely on adhoc basis with immediate effect.

In compliance to this Office Notices No. 940E/21PIB d/8-3-85, 757E/179PIA d/8.3.85 and 757E/178 PE VII d/8-3-85, 16-3-85 and 28-3-85, Class IV staff who are put to work as GC's, PC's, BC's and TCR's Gr.260-430(Rs) purely on temporary and adhoc basis are hereby reverted to substantive Grades with immediate effect and will continue to work on their present station of posting till further orders of this office by down grading the posts.

Please advise compliance by return Dak."

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It is seen that the Order itself says that "they will continue to work on their present station of posting till further orders of this office by down grading the post" The Applicant has also filed a copy of letter No.C2/26056/X/76 dated 31.3.87 issued by the Senior Divisional Commercial Superintendent, Firozpur wherein on the subject relating to utilisation of Class IV staff against Class III vacancies, status quo may be maintained till permanent arrangements are made by the Personnel Branch(Annexure A2).

The Applicant has also filed a copy of Letter No.757 E/179/PIA dated 10-5-1988 issued by the Divisional Personnel Officer, Firozpur which states that "Senior Divisional Superintendent has ordered that the above named (the Applicant) may be sent for duty as Gatekeeper under advice to this office." It would appear from these letters that the Applicant was employed as Booking Clerk until 10-5-1988. There is no reference to these letters in the counter filed and the learned counsel for the Respondents has not shown any papers to

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controvert these facts. In the result we find that the Applicant is entitled to ^{the} salary attached to the post of Booking Clerk upto 10--5--1988 and the respondents are directed to pay the amounts due to him within a period of two months from the date of receipt of this order.

The Application is allowed to the extent indicated above. There will be no order as to costs.

B.N.Jayashimha
(B.N. JAYASIMHA)
Vice-Chairman.

AB
(AMITAV BANERJI)
CHAIRMAN.

SSS.