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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

OA 1131 of 1986

Decided on 12-9-89

Amar Singh and others ... Applicants

versus

Union of India and others Respondents.

For the Applicants - Mr. R.K. Kamal, Advocate.

For the respondents - Mr. Arvind Sinha, Advocate.

B.S. SEKHON:

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The sole important question requiring adjudication in the instant Application is as to whether the benefit of upgradation from the post of Personnel Inspector (grade 550-750) to that of Chief Personnel Inspector (grade 700-900) flowing out of ~~Cadre Review~~ and Restructuring of Group 'C' and 'D' staff Scheme (for short the 'Scheme') vide Railway Board's circular No. PCIII/84/UPG/9 dated 16.11.84 is to be accorded on the basis of combined seniority of Personnel Inspectors (PIs) in the Northern group Railway or on the basis of the seniority amongst the PIs in Delhi Division on the basis of decentralisation.

2. Reproduction of the salient features of the Scheme and the salient features of the decentralisation of the post of Chief Personnel Inspector (CPI) carried out vide G.M's communication No. 752-E/5/33/Eiid dated September 18, 1984 would afford assistance in resolving the conflicting claims of the parties:

3. The opening para of the Scheme, (Annexure A-2) states that the Ministry of Railways have decided with

the approval of the President to restructure certain categories of Group 'C' & 'D' as detailed in the annexure enclosed. The post of the Personnel Inspector (Grade 700-900) is at Sr. No.8 of the annexure.

The revised percentage against the said post is 30%. As para 3 of the Scheme, the cadre strength as on 1.1.1984 will be taken into account and will include Rest Giver and Leave Reserve Posts. Vide para 4 thereof, staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 2018-B(FR 22) RII w.e.f. 1.1.1984 and the benefit of fixation effective from 1.1.1984 will also be applicable to the chain/resultant vacancies. It has been further stated in this para that in effect, the benefit of fixation from 1.1.84 should be given against all vacancies which arise from restructuring. Para 5.3 lays down the sequence in which the vacancies existing on 1-1-84 and those arising on the said date from the cadre restructuring should be filled.

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4. By virtue of the communication dated 18th September, 1984 (copy Annexure I) at page 6 of the paper book, the posts of Chief Personnel Inspector (Grade 700-900) which had earlier been centrally controlled were decentralised. The opening para of Annexure-1 states that it has been decided that the post of Chief Inspector (Grade 700-900) which were centrally controlled by the Hd. Qrs. office at present, has now been decentralised and will be

controlled by the respective Divisional Railway Manager with immediate effect for all purposes. It has also been provided in this Annexure that the staff working on Construction Organisation or on deputation else where will continue to hold their lien on the Division from where they were last relieved for Const. Organisation or on deputation elsewhere and in all other cases 'status quo' may be maintained i.e. the staff working in the Division on date seek their further promotion in the same division. ; and that the selection will be conducted by the Division for the empanelment of CPIs (Grade 700-900) officiating as CPI Gr. 700-900 on ad hoc basis pending selection. The decentralisation created as many as 8 Divisions.

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5. According to the respondents, ^{who} the Applicants/ are working in the Delhi Division, have to be granted promotion to the post of CPI, flowing out of the Scheme, on the basis of the Divisional seniority and not on the basis of combined seniority of Northern Railway, which is ~~an~~ intendment of the Scheme. In support of this contention, the respondents have placed (i) reliance on the points ⁽ⁱ⁾ that the de-centralisation of Hqs. controlled posts (Grade 550-750) started on March 6, 1979, Hqs. controlled posts in Grade 700-900 were decentralised in the second phase process on July 28, 1981 and that the post of Personnel Inspector (Grade 700-900) was decentralised on 18.9.84 in pursuance of policy adopted in 1979 in consultation with the recognised Unions ~~namely~~ NRMU and URMU.

(ii) The other point made by the respondents is that the decentralisation of the PIs (Grade 700-900) was effected on 18.9.84, whereas, restructuring order was issued on November 16, 1984 and that decentralisation order in no way contravenes the orders of the Railway Board.

6. We have heard the arguments addressed by the learned counsel for the parties at the Bar and have also considered the pleadings and the documents on record.

7. During the course of arguments, the learned counsel for the respondents was at pains to stress that the process of decentralisation which had been initiated in consultation with the two recognised Unions was started as early as March 6, 1979 and the second phase of the process covering the posts of PIs was started on July 28, 1981. This argument does not improve the respondents' case in any manner for the simple reason that the process of decentralisation of the cadre of CPIs (Grade 700-900) according to respondents' own averment in para 6 of the counter, was carried out on September 18, 1984. Opening para of Annexure-1 also makes it evident that the post of CPI (Grade 700-900) which were earlier centrally controlled, were decentralised with immediate effect i.e. with effect from Sept, 18, 1984. Mere commencement of the broader process of decentralisation on some anterior dates would not have the effect of altering the date of decentralisation of the Post of CPI. There is thus no escape from the conclusion that the

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decentralisation of the posts of CPIs in the Northern Railway became effective from Sept., 18, 1984. The salient features of the Scheme as extracted hereinabove, inter alia, provide that the cadre strength as on 1-1-84 is to be taken into account ~~for the purpose~~ of restructuring and as such the cadre strength of CPIs existing as on 1-1-84 comprised the combined cadres of CPIs and not the separate cadres created as a result of decentralisation. In view thereof, it can be stated without fear of any contradiction that the benefit flowing from the Scheme was to be accorded on the combined seniority of CPIs as it existed on 1-1-84 in the Northern Railway and not on the basis of the group seniority in the separate Divisions, which came into being as a result of the decentralisation. The argument that the orders of restructuring were issued on 9-11-84, put forth by the learned counsel for the respondents has little to commend itself. This argument misses the vital aspect that the Scheme was made effective with effect from 1-1-84. This argument, so to say, is an argument in despair.

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8. In the premises, we hold that the benefit of restructuring flowing ~~on account of~~ ^{from} the policy of restructuring introduced vide Annexure-2, in the matter of promotion from the post of PI (Grade 500-750) to the post of CPI (Grade 700-900) is to be accorded on the basis of combined seniority of the cadre of CPI as it existed on 1-1-84 and not on the basis of the ~~Division~~ group seniority in the

Divisions which came into existence as a result of decentralisation of the posts of CPIs. In sum, the respondents are directed to grant promotion to the eligible Applicants to the posts of CPI arising as a result of coming into force of the Scheme of restructuring, on the date indicated hereinabove within a period of three months from to-day.

9. Application is disposed of on the terms stated hereinabove, with no order as to costs.

D.K. Chakravorty
(D.K. Chakravorty)
12/9/89 AM

B. S. Sekhon
(B. S. Sekhon)
VC
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