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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1271/87
T.A. No.

1987

DATE OF DECISION 16.5.1988

Shri O.P. Gupta

Petitioner

Shri K.N.R. Pillai

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent


Advocate for the Respondent(s)


CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman(Judicial)

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*


(S.P. Mukerji)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)

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Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1271/87

Date: 16.5.1988

Shri O.P. Gupta

.... Applicant

Versus

Union of India & Ors.

.... Respondents

For the Applicant

.... Shri K.N.R. Pillai, Advocate.

For the Respondents

.... None

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judicial)
Hon'ble Shri S.P. Mukerji, Administrative Member.

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicant, who is working as a Conductor in the Northern Railways, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, claiming that he is entitled to be regularised as Conductor from 24.2.1983 on completion of 18 months' continuous service and to be included in the seniority list on the basis of such regularisation and thereafter to be included in the promotion list of T.T.I. in accordance with his due seniority.

2. Despite notice and several opportunities given, the Union of India represented by the Secretary, Railway Board, and the Divisional Railway Manager, Delhi Division, Northern Railways, who have been impleaded as the respondents, did not appear before us nor did they file any counter-affidavit or written submissions.

ay 3. The case of the applicant in brief is that he joined service as a Ticket Collector in 1957 and was promoted to the next grade of Travelling Ticket Examiner. It appears that in the cadre of ticket-checking staff of

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the Delhi Division, there had been no regular promotions from November, 1979 to December, 1983 on account of a stay order passed by the Delhi High Court in Civil Writ No. 1227/79 filed by one of the TTEs. However, during this period, for running the essential services, certain promotions were made on ad hoc basis without violating the stay order. The applicant was also promoted to the next higher grade of Conductor on 20.5.1981. There was a provision in the promotion order that those who submit refusal letters or requests for being posted at other stations, would lose their seniority and become junior to those who avail of the promotion. Unlike some others, the applicant accepted the promotion orders and his seniority reckons from 20.5.1981.

4. The promotion of the applicant was prescribed as an ad hoc arrangement in view of the stay order of the Delhi High Court. Though the promotion was initially for two months, the period was extended further. The stay order was finally vacated on 19.12.1983.

5. In the meanwhile, there was a restructuring of the cadres resulting in considerable increase in the posts in the higher grade, namely, Chief Inspector (Tickets) (Rs.700-900), Junior Inspector (Tickets) (Rs.550-750) and Conductor (Rs.425-640). The vacancies resulting from the cadre-restructuring were to be filled from 1.1.1984. The respondents did not fill up the vacancies which had accumulated from 1979 to 1983. However, vacancies from 1.1.1984 were filled up. This gave rise to representations as a result of which, the respondents decided that those who had put in officiating period of 18 months on ad hoc basis,

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should be treated as regularly promoted from the date of completion of 18 months (vide letter dated 29.7.1985 of the General Manager, Northern Railways).

6. Accordingly, orders implementing the above decision to regularise those senior persons who had been officiating on ad hoc basis for over 18 months, were issued by respondent No.2 on 17.2.1986. Unfortunately, the applicant's name did not figure in that list although he was within the seniority range and he had put in the qualifying period of ad hoc service of 18 months. The applicant has alleged that his omission from the list was arbitrary and was done to show favour to some of his juniors.

7. Apart from the 18 months' rule, the applicant was eligible for promotion from 1.1.1984 in the vacancies resulting from restructuring of the cadres. Respondent No.2 issued orders in this behalf on 1.9.1984, but his name did not figure even in that list.

8. The respondents finally promoted the applicant vide order dated 30.12.1985. He has alleged that in that order, one of his erstwhile juniors had been shown as senior to him. He was promoted only w.e.f. 1.5.1985.

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9. The contention of the applicant is that by virtue of the 18 months' rule, he ought to have been regularised before 31.12.1983. Had this been done, he would have been assigned his due position in the seniority list and his juniors would not have been shown above him in that list. According to him, he would have been promoted to the next grade of T.T.I. had he been assigned his due seniority. In the list of TTIs published on 29.1.1987, his name did not figure.

10. The applicant has relied on the law laid down by the Supreme Court in Narender Chadha Vs. Union of India, AIR 1983 SC 638 and the judgement of this Tribunal in S.C. Kacktwana Vs. Union of India, ATR 1987(2) CAT 22 in support of his plea that his entire service from 24.8.1981, though described as ad hoc, should count for seniority in the post of Conductor. Once it is so counted, he would be eligible for inclusion in the promotion list of the next higher grade of T.T.I.

11. We have carefully gone through the records and heard the learned counsel for the applicant. In the instant case, the promotions made in the two cadres- that of Conductors and T.T.Is- were on adhoc basis by applying the 18 month⁸ rule which is a policy of promotion adopted by the Railways. To our mind, that policy should be adopted on an uniform basis. In the absence of a binding rule of seniority, the length of officiation should be adopted as a valid principle of seniority (Vide G.P. Doval & others Vs. The Chief Secretary, Govt of UP & others 1984 SLJ-166) All adhoc appointees are entitled to be considered for promotion, alongwith the regular appointees of the same cadre (Vide Gurjit Singh Sahota Vs State of Punjab and Another, 1975 SCC(L&S) 385 and Sheo Dayal Sinha and others Vs State of Bihar and others, 1982 SCC(L&S) 74).

12. In the facts and circumstances of the case, we order and direct as follows:-

(i) The applicant~~s~~ should be deemed to have been regularised as Conductor from 24-2-83, ie., the date of his completion of 18 months' continuous service in the grade with consequential benefits of seniority and further promotion.

(ii) The applicant should be considered for promotion as T.T.I from the date his immediate junior on the basis of length of service was so considered and selected. If considered fit for such promotion he should be promoted w.e.f the date his aforesaid junior was promoted with all consequential benefits.

(iii) The process of consideration for promotion and promotion, if any, should be completed within a period of three months from the date of this order.

(iv) There will be no order as to costs.

S.P. Mukerji
16.5.88
(S.P. Mukerji)
Administrative Member

P.K. Kartha
16/5/88
(P.K. Kartha)
Vice-Chairman(Judl.)