

9.
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 214/87

DATE OF DECISION: 30.7.90.

SHRI PURAN PARKASH

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI G.D. BHANDARI

ADVOCATE FOR THE APPLICANT

SHRI O.N. MOOLRI

ADVOCATE FOR THE RESPONDENTS.

CORAM:

THE HON'BLE MR. S.R. SAGAR, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT (ORAL)

The short point involved in this application filed by Shri Puran Parkash is whether he was a Scheduled Caste (SC) candidate when he was appointed as Assistant Station Master (A.S.M.) on 15.9.1966 or if he be treated as SC candidate from 19.11.1985 when according to the respondents he submitted a certificate to that effect. The documents enclosed with the OA except Annexure-A-1 which is an order issued by APO, DRM Office on 15.1.1987 indicates that the applicant has all along been treated as a SC candidate.

It is only vide order dated 15.1.1987 that his seniority assigned vide Annexure-A-5 and later upheld by order vide Annexure-A-12 was reversed by giving him lower seniority treating him as a SC candidate from 19.11.1985. While the learned counsel for the applicant drew our attention to the documents enclosed with the OA where he has been shown as SC candidate right from the date of joining, the learned counsel for the respondents expressed some doubts about the veracity of the documents. The fact, however,

remains that the applicant was appointed as A.S.M. on 15.9.1966 when his age was 27 years and 10 months - his date of birth admittedly being 15-11-1938. It is further averred that the General Managers of the Indian Railways were given special powers to recruit SC/ST candidates, to be exercised personally in relaxation of the age fixed for entering into Government service.

2. There is no dispute that applicant Shri Puran Parkash was appointed on 15.9.1966 as A.S.M. when he had already attained the age of 27 years & 10 months. He could not have been appointed as a general candidate in September, 1966 unless he belonged to the SC community. The respondents in their written statement have further stated that the original Service Book of the applicant is not available. The service record produced before us today is only reconstructed record and does not relate to post-1973 period when he was absorbed as Clerk on being medically decategorised. On the basis of the overwhelming documentary evidence annexed by the applicant with OA and the fact that the applicant could not have been appointed as a general candidate being over-age at the time of appointment, we are of the view that Shri Puran Parkash was accepted as SC candidate at the time of appointment.

As we have also shown that the applicant was SC from the very beginning, it is not open for the respondents to treat him as SC only from 19.11.1985. That being so, his seniority as . has been assigned to him vide Annexure-A-12 of the application cannot be changed vide Annexure-A-1 on that ground. Consequently, we declare that the Annexure-A-1 of the application changing the seniority of the applicant on the ground of his being SC from 19.11.1985, is against the rules and principles of natural justice. Accordingly, the impugned order contained in Annexure-A-1 of the application is hereby quashed. The applicant shall

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be entitled to all the consequential benefits, if admissible to him under the rules, according to his seniority.

The application is disposed of with no orders as to the costs.

Abhaypal
(I.K. Rasgotra)
Member (A) 30/7/90

S.R. Sagar
30/7/90
(S.R. Sagar)
Member (J)