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O.A. 58/87.

Sri Niwas ... Applicant.
versus
Union of India and others... Respondents.

P R E S E N T :

The Hon'ble Sri G. Sreedharan Nair, Vice Chairman.

The Hon'ble Shri P.C.Jain, Member(Admn).

For the applicant- Shri R.L.Sethi, Advocate.

For the respondents- Shri O.N.Moolri, Advocate.

Date of hearing and order- 10.5.90.

ORDER:

G.Sreedharan Nair, Vice Chairman :

The applicant who was a Gateman was allowed to work against the post of Booking Clerk on local adhoc officiating arrangement pending availability of regularly selected incumbent. By the order dated 2.5.1986, he was reverted to the substantive post of Gateman. He assails the said order on the ground that he has been condemned unheard, and that his juniors are still continuing in the post. It is also stated that since he continuously officiated in the post for about ten (10) years, the order of reversion is bad in law.

2. In the reply filed on behalf of the respondents, it is stated that in the post of Booking Clerks that fell vacant at various stations, in public interest, adhoc local arrangements had to be made and it was accordingly that the applicant was put to work against that post. It is contended that the applicant was afforded opportunity to take the selection for regular appointment to the post, but he failed to qualify in the written test and, as such, the adhoc officiating arrangement had to be put an end to accommodate the regularly selected hand.

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In respect of the plea of retention of juniors, it is stated that there has been no discrimination. It is also pointed out that the reversion is not punitive.

3. We have heard the learned counsel on either side. We are of the view that there is no merit in the application.

4. The applicant has not produced the copy of the order by which he was allowed to work against the post of Booking Clerk. The respondents have stated in the reply that it ~~was~~ only a local ~~ed~~hoc officiating arrangement pending availability of regularly selected hands. As such, though the applicant was permitted to work against the post for a few years, it does not confer on him any legal right to the post.

5. It is not disputed that regular appointment to the post of Booking Clerk is done on the basis of a selection and that the applicant was afforded opportunity to take the selection, but he failed to qualify.

6. The plea in the application that the order is punitive, ~~and~~ ^{and} having been passed without affording the applicant an opportunity of being heard, is illegal, has to be rejected since no stigma is cast by the order of reversion, and it is not a case of reduction of rank, imposed as a penalty.

7. There is an averment in the application that " juniors to the applicant are still continuing while the applicant has been discriminated for no ostensible reason." It is significant that the

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applicant has no case that any of his juniors, though not qualified in the selection, is being retained. As such, we cannot hold that there has been any discrimination so as to attract Article 14 of the Constitution of India.

8. The application is dismissed.

Clean
10.5.90
(P.C.Jain)
Member (Admn).

10-5-1990
(G.Sreedharan Nair)
Vice Chairman.

S.P.Singh/
10.5.90.