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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 1243/87

Date of decision: 4-1-1993.

K.D.Bandula & Ors.

...Applicants

Versus

Union of India & Ors.

...Respondents

CORAM:

THE HON'BLE MR. JUSTICE V.S.MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R.ADIGE, MEMBER(A).

For the applicants

...Shri Umesh Misra,
Counsel.

For the respondents 1 & 2

...Shri P.P.Khurana,
Counsel.

For respondent no.3

...Shri B.S.Mainee,
Counsel.

JUDGMENT (ORAL)

(Hon'ble Mr. Justice V.S.Malimath, Chairman) :

The petitioners are serving as Senior Clerks in the Accounts Department of Delhi Office of the Western Railways. They have challenged in this petition filed on the 1st September, 1987 the seniority list of Head Clerks and Senior Clerks as on 1-7-1986 and 29-6-1987 in so far as the name of respondent no.3 has been included and assigned seniority consequent upon her transfer to the Accounts Department. Respondent no.3, Km. Balvinder Bhatia was a Senior Clerk in R & D Section of DRM Office, Bombay Central, in the Western Railway. She was transferred in public interest by the competent authority by Order dated 28-5-82 (Annexure A),

subject to the condition that she will be on probation for a period of one year from the date of her joining the office of S.A.O. (SDA's Office), DKZ, Delhi and passess the APP-II examination within three years from the date she joins the Accounts Department for which she was afforded two chances for securing permanent absorption in the Accounts Department. Consequent upon this order of transfer, she was inducted in the Statistical Department as a Senior Clerk. In due course, she was promoted as Head Clerk in the Accounts Branch some time in the year 1984. So far as petitioners are concerned, they belong to the Statistical Branch. As respondent no.3 came by the process of transfer in public interest, she was able to secure an appropriate rank in the seniority list taking into consideration the service rendered by her before her transfer. It has obviously affected the chances^{of promotion} of the petitioners who were already there in the Statistical Branch. It is, therefore, that they felt aggrieved by the absorption of respondent no.3 in the Statistical Branch by according her seniority in the seniority list and giving promotion to her into the cadre of Head Clerks in the Statistical Branch.

2. The respondents have maintained that there is nothing arbitrary in the matter of inducting respondent no.3 in the Statistical Branch. Respondents no.1 & 2 have taken the stand that respondent no.3 was transferred in public interest

by Annexure A to the Office of S.A.O. (FIA), DKZ, Delhi. According to them, the transfer was to the Accounts Department at Delhi which consisted of two sections or branches - Statistical Branch or Section and the Accounts Branch or Section. Separate seniority was maintained for these two branches or sections. Their prospects of promotions were also dependent upon the seniority in the respective branches or sections. The contention of the learned counsel for the petitioners, however, is that the transfer of respondent no.3 to the Accounts Branch or Section and thereafter her being inducted or posted to the Statistical Branch was not legal and proper. In the reply filed on behalf of respondents no.1 & 2, it is made clear that the department to which the respondent no.3 was transferred consisted of two branches or sections, namely, the Statistical and Accounts Branch. As the transfer was made to the Delhi Office which consisted of these two Branches or Sections, it was for the S.A.O. who headed these two Branches or Sections to post the respondent no.3 to one of the two Branches, i.e., either in the Statistical Branch or Section or in the Accounts Branch or Section. From the material placed before us, we are inclined to accept the version given by the respondent no.1 & 2 about the arrangement that existed in the department. The competent authority had the discretion to allot respondent no.3

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either to the Statistical Branch or Section or to the Accounts Branch or Section. They have further pleaded that there were vacancies available in both the Branches or Sections. It is in this background that the competent authority examined the question of allocating respondent no.3 to one of the two Branches or Sections. It is pointed out that the respondent no.3 is the sports woman of merit and in the ^{sports} quota she was originally recruited. It is stated that in the Accounts Branch or Section, there were adequate number of sports men available. That was not the position so far as Statistical Branch is concerned. As there were vacancies, the competent authority has taken into account the factor that there were not adequate number of sports men in the Statistical Branch for allocating the respondent no.3 to that Branch. The discretion exercised on the basis of this criteria cannot be regarded as arbitrary, justifying our interference. Hence, it is not possible to take the view that posting of respondent no.3 to the Statistical Branch is illegal or improper. Once respondent no.3's transfer and posting to the Statistical Branch is held legal and proper, it would be proper to work out further promotions on the basis of her legitimate seniority. She was undoubtedly entitled to have the benefit of the service rendered by her in the previous Branch prior to her transfer. Hence, no grievance can be made about the appropriate ranking in the Statistical Branch of the

Accounts Department of the Delhi Office. Hence, we do not find any good ground for interference.

3. The counsel for the third respondent also stated that this case is also barred by sub-section 2 of Section 21 of Administrative Tribunals Act as cause of action accrued in the year 1983 when respondent no.3 came to be posted in the Statistical Branch to the knowledge of the petitioners. That being the position, it is also clear that the claim of the petitioners is also barred under Section 21(2) of the Act.

Looked at from any angle, we see no good ground to interfere. Hence, this petition fails and dismissed. No costs.



(V.S. MALIMATH)
CHAIRMAN


(S.R. ADIGE)
MEMBER(A)

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