

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA NO.1334/90

DATE OF DECISION:31.8.1990.

SHRI SONI SINGH

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI G.D. BHANDARI

ADVOCATE FOR THE APPLICANT

SHRI SHYAM MOORJANI

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

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

JUDGEMENT

(DELIVERED BY HON'BLE MR. I.K. RASCOTRA, MEMBER (A))

The applicant in this case was working as a Booking Clerk at Mansa station on adhoc basis from 1.4.1980. There were four posts of the booking staff at that station as per details given below:-

One post Rs.1600-2660

Two posts Rs.1400-2300

One post Rs.975-1540

The petitioner was working against the post in the pay scale of Rs.975-1540. The Booking Supervisor in the highest grade of Rs.1600-2660 was due to retire on 31.3.1990 and to fill the vacancy so caused, Shri Chander Prakash Garg was transferred from another station to fill up that post vide order dated 25.4.1990 about 3 week in advance to facilitate taking over of charge.

2. The case of the applicant is that during the period of over lap he was asked by the Station Superintendent to take medical leave for a few days till the date of retirement of the Booking Supervisor on 31.3.1990, thereafter he

will be taken back on duty. Instead Shri Ram Milan, a Waterman, working at that station has been posted as Booking Clerk (Rs.975-1540) by the Station Superintendent on adhoc basis. The applicant has, therefore, prayed that the respondents should be directed to allow him to rejoin his duty at Mansa station as Booking Clerk (Grade Rs.975-1540) which post he was holding from 1980 till March, 1990 when he was asked to go on leave.

3. Advocate, Shri G.D. Bhandari, appearing for the applicant drew our attention to order dated 21.3.1980 (Annexure A-2 to the application) in terms of which the applicant was initially posted as Booking Clerk w.e.f. 1.4.1980 against a newly created post. He was given practical training and was declared suitable by ATS, Bhatinda for holding the post of Booking Clerk. He added that Shri Ram Milan the Waterman now posted as Booking Clerk at Mansa station has no such qualification nor there is any order of the competent authority posting him as Booking Clerk at Mansa station.

The case of the respondents was presented by Advocate, Shri Shyam Moorjani who submitted that the applicant has been unauthorizedly absent from duty from 7.3.1990 and absconding from 24.5.1990. According to him, it was not, therefore, possible for the respondents to appoint the applicant to the post of Booking Clerk. This is, however, not substantiated by the material before us, as the applicant had in fact approached the Station Superintendent to permit him to resume duty, but was not allowed to do so vide Annexure-A-3 (page 20 of the paper book).

4. We have considered the rival contentions and the material before us. It is an admitted fact that the applicant has been working as Booking Clerk since 1.4.1980 till he was sent on leave on 7.3.1990. Accepting the

position that there was need to send him on leave for cadre adjustment before the impending retirement of the Booking Supervisor, the obvious and proper course would have been to repost Shri Soni Singh as Booking Clerk on adhoc basis, who besides having experience for 10 years as Booking Clerk ^{is also} senior to Shri Ram Milan in the substantive cadre (Group 'D'). Ordinarily, the question of reverting him to accommodate a junior person would not arise. He can be reverted only if he fails to pass the examination for regularisation after reasonable opportunities have been provided to him to pass the selection test. (Shri Jetha Nand & Others Vs. Union of India, Full Bench CAT Judgement dated 5.5.1989 in T-844/86). In the content of the above discussion, we have no alternative but to allow the application. Accordingly, we order and direct that the applicant should be reposted on adhoc basis as Booking Clerk in the grade of Rs.975-1540 with immediate effect.

The OA is disposed of with the above directions at the admission stage itself.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A) 31/8/90

T.S. Oberoi
(T.S. OBEROI)
MEMBER (J)