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CENTRAL ADMINISTRATIVE TRIBUNA, PRINCIPAL BENCH

OA 2264/1990

New Delhi, this 10th day of February, 1995

Hon'ble Mr. Justice S.C. Mathur, Chairman
Hon'ble Mr. P.T.Thiruvengadam, Member(A)

1. Shri G.R.Aggarwal, s/o Shri R.K. Aggarwal
2. Shri Ashwani Kuar, s/o Shri Lahori Lal
3. Shri Yog Raj Malhotra,
s/o Shri R.P. Malhotra .. Applicants
(all working as Assistant Rates
Inspectors in Northern Railway)
By Shri B.S. Mainee, Advocate

versus

Union of India, through

1. The General Manager
Northern Railway
Baroda House, New Delhi
2. The Chief Commercial Superintendent
(Rates) Northern Railway
Baroda House, New Delhi .. Respondents

ORDER (oral)

When this case was taken up after a second call, Shri B.S. Mainee, Advocate appeared on behalf of the applicants but none appeared on behalf of the respondents. We, therefore, proceed to dispose of the case after hearing Shri Mainee and perusing the records and averments made in the reply.

2. The applicants viz. S/Shri G.R.Aggarwal, Ashwini Kumar and Yog Raj Malhotra seek a direction to the respondents to assign them seniority from the dates they were promoted on ad hoc basis to the post of Assistant Rates Inspector. The applicants were promoted to the said post with effect from 24.11.86, 20.12.88 and 21.12.88, respectively. Apart from assignment of seniority with effect from the above dates, the applicants also seek consequential benefits. The facts which are not disputed are: that the applicants joined the Railway

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Administration as Lower Division Clerks. Hereafter, they were promoted as Senior Clerks. The next higher post is of Assistant Rates Inspector. They were promoted to this post on ad hoc basis with effect from the dates mentioned above. Regular selection for promotion to this post took place in the year 1990. On the basis of their selection, they were empanelled on 7.6.1990. It appears that from the dates of the ad hoc promotion till the date of their regular promotion, the applicants continued to hold the post of Assistant Rates Inspector without being reverted to the post of Senior Clerk. The applicants' plea is that since their ad hoc promotion ultimately resulted in their regular appointment, they are entitled to count the period of ad hoc service towards seniority.

3. The applicants' claim is contested by the Railway Administration in para 4.3 of the reply signed by the Assistant Personnel Officer (T&C).

4. In the reply, it is pointed out that under instructions dated 28.8.85 of the Railway Board, ad hoc service does not count towards seniority. It is also stated that the post of Assistant Rates Inspector is a selection post and the applicants were appointed on ad hoc basis without their having been selected through a regular process of selection. The dispute raised by the learned counsel for the applicants is covered by the Full Bench decision of this Tribunal in Ashok Mehta & Ors. Vs. Regional Provident Fund Commissioner &

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Anr. (T-43/87 decided on 5.2.93). It has been held in this decision that promotion by way of ad hoc or stop gap arrangement made due to administrative exigencies and not in accordance with the Rules can not count for seniority. It is not the case of the applicants that they were appointed on ad hoc basis after selection had been held in accordance with the procedure prescribed.

5. In view of this position, the claim of the applicants can not be sustained.

6. The learned counsel submitted that the applicants had worked on ad hoc basis for a long time and therefore they are entitled to count the period of ad hoc service towards seniority. We are unable to accept this submission as the maximum period of ad hoc service in the said case does not exceed even four years. Applicant No.2 has a service of less than two years.

7. In view of the above, the application is dismissed. There shall be no order as to costs.

P. J. Thiruvengadam

(P.T.Thiruvengadam)
Member(A)
10.2.95

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S. C. Mathur

(S.C. Mathur)
Chairman
10.2.95