

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO.1327/1991

DATE OF DECISION : 15.01.92

SMT. SATYA DEVI

...APPLICANT

VS.

GENERAL MANAGER, NORTHERN
RAILWAY, BARODA HOUSE & ANR.

...RESPONDENTS

CORAM :

SHRI I.K. RASGOTRA, HON'BLE MEMBER (A)
SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI B.S. MATNEE

FOR THE RESPONDENTS

...SHRI R.L. DHAWAN

1. Whether Reporters of local papers may be allowed to see the Judgement? *N*
2. To be referred to the Reporter or not? *N*

J U D G E M E N T (ORAL)

(DELIVERED BY SHRI I.K. RASGOTRA, HON'BLE MEMBER (A))

Heard the learned counsel for both the parties. The learned counsel for the applicant submitted that the applicant was promoted as Senior Telephone Operator on 1.1.1979. 8 posts of Telephone Operators were sanctioned in Moradabad Division under decasualisation scheme in addition to 31 existing posts and accordingly, the applicant who was the seniormost Senior Telephone Operator, should have been promoted to the next higher grade of Rs.425-640

2

...2...

as the posts in the cadre of Telephone Operator in various grades are operated on per centage basis. The learned counsel submitted that the applicant was placed on the Select List and also promoted on regular basis as Head Telephone Operator in the pay scale of Rs.425-640 w.e.f. 2.4.1991. However, vide impugned order dt.29.5.1991, she was reverted without giving any reasons nor was any opportunity given to her to show cause as to why she was being reverted.

2. Shri R.L.Dhawan, learned counsel for the respondents submitted that the applicant should have exhausted the departmental remedies before coming to the Tribunal and that she could have filed a statutory appeal against the order of reversion in accordance with Rule 18(v) of the Railway Servants (Discipline and Appeal) Rules when the reversion is ordered not as a penalty. He further submitted that admittedly 8 posts were sanctioned for the Telephone Operators under the decasualisation scheme. The post, however, could not be operated as according to the order of the Hon'ble Supreme court, the posts were to be operated from a date earlier than the

2

...3...

10

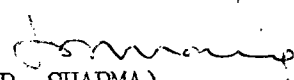
date from which they were originally sanctioned and, therefore, a reference was made to the Railway Board. On our query whether the orders of the Hon'ble Supreme Court reproduced below (Annexure RI), "We think that on the facts and circumstances of the case, the petitioners should be regularised with effect from 5.4.1984 in the grade of Telephone Operators (Rs.260-400). Arrears to be calculated and paid within two months from today." have been implemented, the learned counsel submitted that the arrears from 5.4.1984 have been paid to the concerned staff, although they have not been regularised for want of revised sanction from the Railway Board.


3. We have considered the rival contentions and we are of the view that since the arrears of pay due to the Telephone Operators against the 8 posts sanctioned under the decasualisation scheme have been paid, the said posts in fact are deemed to have been operated w.e.f. 5.4.1984. In the circumstances, 8 posts should have been taken into consideration in

...4...

(M)

addition to the existing 31 posts for distribution in the various grades of the Telephone Operators. If per centages applied to the 39 posts of Telephone Operator, a post in the scale of pay of Rs.425-640 becomes available, the applicant should be deemed to have continued in that post as she had already been promoted in that scale w.e.f. 2.4.1991. We also observe that the applicant retired from service on 30.6.1991. We accordingly order and direct the respondents shall deem the applicant to have continued in the pay scale of Rs.425-640 (pre-revised) w.e.f. 2.4.1991 till the date she retired on superannuation and the pensionary benefits recalculated accordingly and differential amount due to her paid. The order dt. 29.5.1991 is, therefore, quashed. The above orders shall be carried out within a period of eight weeks from the date of communication of this order. The OA is disposed of with the above directions with no orders as to the costs.


(J.P. SHARMA)
MEMBER (J)
15.01.1992


(T.K. RASGOTRA)
MEMBER (A)
15.01.1992

15/1/92