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Central Administrative Tribunal
Principal Bench, New Delhi

OA No.2861/91

New Delhi, this 2nd day of April, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member (A)

A.K.Bansal
s/o Shri C.D.Bansal
r/o H-439, Sarojini Nagar
New Delhi.

... Applicant

(By Shri V.C.Sondhi, Advocate)

Vs.

1. Union of India
Secretary Ministry of Railway
Rail Bhawan
New Delhi.

2. Shri R.A.Siddiqui
(Health Education Officer)
Ministry of Railway
Rail Bhawan
New Delhi.

... Respondents

(None for the respondents)

O R D E R(Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant claims that though he was senior his junior, Respondent No.2, was given charge of the higher post on ad-hoc basis. The facts of the case in brief are that both the applicant and the Respondent No.2 joined North Eastern Railway and Western Railway respectively on 8.8.1967 and 7.4.1966 in the rank of Statistical Clerk. They came on deputation to the Railway Board as Statistical Assistant w.e.f. 4.4.1978 and 21.3.1978 respectively in the pay scale of Rs.425-700(Rs.2000-3200). After they came on deputation to the Railway Board, the post of Health Educational Officer(HEO) became available. Initially Respondent No.1 decided to upgrade that post and pending that upgradation took an interim decision to fill up the post on ad-hoc basis. Considering Respondent No.2 senior, they appointed him vide

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order dated 28.11.1990 (Annexure 'B') to look after the duties of the post of Health Educational Officer purely on ad-hoc basis with his own pay for charge allowances under FR-35. The grievance of the applicant is that he was senior to Respondent No.2 since he had been promoted to the post of Health Educational Officer on ad-hoc basis in his own railways on 11.6.1981 while Respondent No.2 had been promoted to similar post in his Railways, Gorakpur vide order dated 8.6.1983. Further, he also claims seniority on the ground that though he joined on deputation in the Railway Board at a later date, his orders of deputation were issued earlier to that of Respondent No.2.

2. Respondent No.1 in their short reply as well as private respondent No.2 deny the above claim of the applicant. It has been stated that there is no inter se seniority maintained at the Railway Board and since recruitment of the staff of the formal welfare organisation in which the applicant as well as Respondent No.2 belong is maintained railway wise, and Respondent No.2 having been recruited earlier, is senior to the applicant.

3. We have heard the learned counsel for the applicant. None was present on behalf of the Respondent No.1 and 2. The learned counsel for the applicant argues that the inter-se seniority in deputation post have to be determined on the basis of the relative dates of promotion to the existing scale and in that interpretation, the applicant having been promoted in 1981 as DEO against the promotion of Respondent No.2 is senior to the latter. However, no rules on the subject have been cited before us. The respondents in their short reply state that the inter-se seniority is to be determined on the basis of recruitment to the respective

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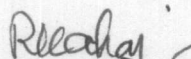
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railways on the basis of it the Respondent No.2 recruited, and is thus senior. Here also no rules have been cited by the respondents.

4. We observe from the pleadings on record that the respondents did not fill up the post of District Health Officer for the reason that they were considering its upgradation. We are now told that despite elapse of 7 years, this ad hoc arrangement is continuing even today. It has also been brought to our notice by the learned counsel for the applicant that vide state notice No. dated 2.2.1996 as a result of the selection held on 4.10.1986 the applicant has been placed senior to Respondent No.2 for the ex-cadre promotion post of Statistical Assistance in the directorate of Ministry of Health. In the facts and circumstances, it would be appropriate that in case the respondents wish to continue the post of Health Educational Officer then they should now make regular promotion and not continuing the ad hoc arrangement.

5. In the facts and circumstances of the case, we dispose of this application with a direction to Respondent No.1 that in case they wish to fill the post they must fill the same on regular basis considering those who are eligible in accordance with the rules within a period of three months from the date of receipt of a copy of this order. No costs.


(R.K. AHUJA)
MEMBER(A)


(DR. JOSE P. VERGHESE)
VICE - CHAIRMAN(J)

/rao/