

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.493/91

New Delhi: April 21, 1995.

(16)

HON'BLE MR. S.R.ADIGE, MEMBER (A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Mangal Sain,
s/o Shri Bhagwan Singh,
Booking Clerk, Jasia Station,
Delhi Division,
Northern Railway,
Delhi
By Advocate Shri O.P.Gupta.Applicant.

Versus

Union of India

through

1. General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
DRM's Office,
Chelmsford Road,
New Delhi.

3. The Divisional Commercial Supdt.,
Northern Railway,
DRM's Office,
Chelmsford Road,
New Delhi

.....Respondents.

By Shri P.S.Mahendru, Advocate.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Shri Mangal Sain, Booking Clerk, Jasia Station, Northern Railway, has impugned the order dated 25.1.91 (Annexure-A1), which according to him amounts to his reversion and has sought a direction that he be deemed to continue.

in the post of Booking Clerk (Class III) on a regular basis.

2. The applicant, who belongs to SC community, joined the Railway services as a Waterman Group 'D' on 6.9.74.

3. It appears that vacancies of Coaching Clerk (including Booking Clerk) are filled up by direct recruitment to the extent of 66-2/3% and by promotion of Class IV eligible staff to the extent of 33-1/3% through a positive act of selection. On completion of three years regular service in Class IV with Standard 8th, the applicant was eligible to be considered for promotion. The applicant contends that he was appointed as a Booking Clerk at Jasra Railway Station and was finally posted as regular Booking Clerk against a reserved vacancy (Paragraph 4.10 of the O.A.). However, later on in paragraph 4.16 of the O.A., the applicant states that he could have been regularised in the reserved vacancy of Booking Clerk in 1985 which he had been holding since November, 1983 but inspite of his further satisfactory performance, at the conclusion of his 9 years working as a regular Booking Clerk against a reserved post, he was still considered as adhoc. Clearly, therefore, the applicant's contention that he was posted as a regular Booking Clerk, is false.

4. In fact, according to the respondents, the applicant did not appear in the selection held in the years 1979, 1981 and 1986, and in the year 1983 he did appear in the selection but he failed to qualify.

They have also contended that the applicant was not

eligible for promotion on adhoc basis as he was not the seniormost, and the merit number of the applicant amongst the Class IV candidates who passed the selection held in 1983, was 73, whereas adhoc promotions were authorised only to 13 persons.

5. Thus, we find force in the respondents' contention that the applicant was not even eligible for promotion on adhoc basis as he was not the seniormost and no adhoc promotion of the applicant was authorised or ordered by the competent authority. It was merely through some local arrangement by the subordinate Incharge at Jasia Railway Station that the applicant was put to work as Booking Clerk on adhoc basis there, and this does not give him any vested right to hold the said post.

6. It is significant that the applicant has not filed any order appointing him as Booking Clerk on adhoc basis.

7. Applicant's counsel Shri O.P.Gupta has sought support from Circulars dated 21.5.56, 9.6.65, 25.1.76, 12.12.70 and 8.8.83 in support of the applicant's prayer. He has also cited the relevant provisions of Section 143 of Railways Act, and has quoted a number of rulings viz. 1990 SIR (70) 490; AIR 1968 SC 717; AIR 1971 SC 1021; CSJ 1991(2) 80; 1981 (2) SIR 86; SIR 1994(97) 593 and SIR 1975 (2) 110.

8. It has now been settled by the Hon'ble Supreme Court in State of Haryana Vs. Piyara Singh -1992(3)SLJ 34 and more recently in Dr. A. Pargaonkar Vs. State of Maharashtra JT 1994(5) SC 378, ~~that a~~ ^{that a} ~~regularly selected candidate~~ ~~regularly selected candidate~~ ~~has to make way for an~~ ~~regularly selected candidate~~ irrespective of the duration for which such adhoc appointee functions. In the present case, before us, the

(a)

applicant was not even appointed by the competent authority on adhoc basis, but was merely put to work as Booking Clerk on adhoc basis through a purely local arrangement, by somebody who was not the competent authority to do so. Under the circumstances, the Government Circulars and Case Laws cited by Shri O.P.Gupta do not help the applicant. Neither does the fact that the applicant belongs to SC community change the above legal position. Under the circumstances, if by the impugned order dated 25.1.91, a regular Booking Clerk was posted at Jasia Railway Station, which resulted in the termination of informal arrangement made there in, and the applicant's consequent replacement, he cannot have a legitimate grievance.

9. In the result, we see no reason to interfere in this matter. This O.A. fails and is dismissed. Interim orders, if any, are vacated. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adise
(S.R. ADISE)
MEMBER (A)

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