

Central Administrative Tribunal
Principal Bench
OA No. 878/91
New Delhi, this 12th day of January, 1996.

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K. Ahooja, Member(A)

Shri V.K. Malik
S/o Sh.C.L. Malik
Sr. TTE, Northern Railway
Jullundur City
and 21 others as per
Memo of parties. ... Applicants
(Advocate: Sh. B.S. Mainee)

versus

Union of India: Through

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

2. The DRM, Northern Railway
Ferozepur. .. Respondents
(Advocate: Sh. A. Kalia)
through Mrs. Suhita Rao,
Adv.)

ORDER

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

The applicants in this case were initially appointed as Ticket Collectors in the grade of Rs. 264-400 in 1971 and earlier. Their further channel of promotion was determined by a letter dt. 19.9.75 (Annexure A-2) issued by GM, NR. This provided that the Ticket Collector/grade of Rs. 264-400 was advanced in grade ^{or} Sr. at Rs. 330-560 and thereafter as TTE in the same grade of Rs. 330-560. The TTE thereafter had

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to give their option for further promotion
Head Ticket Collector ^{or}
either to the post of (HTC), Supervisor TTE
or Conductors. All the three posts carry
the identical pay scale of Rs. 425-640.

The next higher post of Junior Inspectors
in the grade of Rs. 560-750 was to be filled
up from the common seniority of these three
categories. The applicants in this case
on reaching the grade of TTE of Rs. 330-560
were asked to give their option whether they
would like to be HTC, Supervisor TTE or
Conductors. The applicants state that
there was ^{greater} demand for Supervisor TTE
~~which was higher than HTC~~ and consequentially
promotion to Supervisor TTE was slower than to
HTC. However, because there was certain
benefits in the post by way of Travelling Allowances
etc. they opted for the slower grade of
Thus
promotion. L those TTEs who opted for HTC
were promoted earlier even though in some
cases they were junior to the applicants.
The grievance of the applicants/ that though,
in terms of their option, they gave up the
quicker promotion to HTC in the hope and expectations that
they would be promoted as Supervisor TTE.

the respondents changed the rules again in 1988 whereby the channel of promotion to Supervisor TTE was made through the grade of HTC. As a result the applicants were asked to become HTC first and then move on to Supervisor TTE. In the process they not only suffered financial loss relevant to those juniors who had been promoted earlier as HTC but further more they also were made liable to be junior as HTC to the same persons.

The applicants have therefore/before the Tribunal praying that they should be made Supervisor TTE directly in accordance with the rules laid down in 1975 and as per their options which ~~they~~ were ~~had to exercise~~ final and irrevocable.

2. The respondents have controverted the claims regarding the date of appointment of the applicants but have conceded the existence of 1975 rules as well as the fact that the applicants were asked to exercise the options. The respondents however deny that ~~any~~ one junior to the applicants had been promoted as HTC and also contend that after promulgation of ^{new} rules in 1988

all vacancies could only be filled in terms of the new rules.

3. The 1d. counsel for the applicant argued before us that certain rights/vest with the applicant once the option had been called for and exercised. Thereafter the new rules could become operative only after all the persons who had exercised the option had been accommodated as Supervisor TTE. The 1988 rules which provided that the TTE will first have to be HTC and then not Supervisor TTE could/be applied to those who had been asked to exercise/option in terms of 1975 rules. He pointed out that as stated in the rejoinder, a number of TTE junior to the applicants had been made HTCs and the latter will now get priority for appointment as Supervisor TTE. In the event not only the applicants will have to wait as Sr. TTE but also before such juniors were promoted/before being considered for promotion to Ticket Inspectors. The 1d. counsel further pointed out that as a result of restructuring of service conditions the post of HTCs had been given a higher grade in 1984 which meant applicants had to undergo an additional loss by being made to wait in accordance with their options.

4. The 1d. counsel relied upon the judgement of the Supreme Court in the case of Y.V. Rangaih and others vs. J. Srinivasa Rao and others - 1983 (1) DLR 789 to advance his plea that the vacancies which occurred prior to the amended rule would be governed by the old rules and not by amended rules.

5. The 1d. counsel for the respondents urged that nothing adverse had happened to the applicants since in any case they would not have got a chance to be promoted as HTC in order of seniority. Further more the applicants could not be considered to have a vested right merely because an option had been asked for from them, since no vacancies became available for them till the rules were amended in 1988. Even if further promotions to junior Inspectors were to be made under 1975 rules the applicants, on their own admission, would have been promoted later than some of their juniors who might have found place as HTC earlier to them and thus the change in inter-se seniority was well anticipated by the applicants.

6. We have considered the arguments advanced by the 1d. counsel of both sides and also perused the pleadings on records. There is a dispute as to whether the 1988 rules were put in force, any junior of the applicants had been promoted as HTCs in terms of their options. What is not disputed is that the option was obtained under 1975 rules for the post, of HTCs or Supervisor TTEs and by Rules of 1988 the options were abolished and everybody was made to follow the route of HTC to Supervisor TTEs.

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There is a difference between options and actual vacancies. In case the applicants' seniors were promoted as HTC and Supervisor TTEs then the mere fact of having given an option does not adversely affect their prospects nor such an option is a matter of a vested right. What is essential in our view is that the applicants should not be placed in a position of disadvantage vis-a-vis ~~their~~ juniors merely on account that they had given a certain option. In the Rangaiah case cited above, the question was of preparation of an annual select list which was not done by the respondents in a particular year whereafter the rules were amended. This meant that some persons who could have found a place in the select list of that year were left out. The argument advanced by the 1d. counsel for the applicant that ^a list of optees is in the nature of a select ^{list} is in our view tenuous and incorrect. A select list is made of persons who have been found suitable and not one of those who ^{have} given certain options and hence the two things are entirely different. It would suffice therefore in the present case, if the applicants when found suitable for promotion to the post of HTC are restored to their inter se seniority in case their juniors had been promoted earlier merely because of the exercise of the option under 1975 rules.

7. We accordingly direct that the respondents will, in case, the applicants have been promoted to the post of HTC in accordance with 1988 rules, determine their seniority in a manner that they are placed senior to those ^{who} were juniors to them as TTE but were promoted earlier because of the exercise of the option. Their further movement to the post of Supervisor TTE and thereafter will also be determined accordingly and they will be given consequential benefits of seniority in the succeeding grade to which they might be promoted. Application is thus partially allowed with the above directions.

No order as to costs.

Reckha
(R.K. Anooja)
Member (A)

12/1/96

Lakshmi Srinivasan
(Mrs. Lakshmi Swaminathan)
Member (J)

12/1/96