

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(10)

O.A. No. 3238/92

199

T.A. No.

DATE OF DECISION 7-12-99

Sh. Puran Prakash

..... Applicant

Sh. G. D. Bhandari

..... Advocate for the
Applicant(s)

VERSUS

UOI through GM(NR) & Ors

..... Respondent(s)

Sh. D. S. Jagotra

..... Advocate for the
Respondents.

CORAM

The Hon'ble Shri S. R. Adige, Vice Chairman(A)

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

✓ Central Administrative Tribunal
Principal Bench

O.A. 3238/92

New Delhi this the 7 th day of December, 1999

Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Puran Parkash,
S/o Shri Chetan Anand,
H. No. 6173, Nabi Karim,
New Delhi-55. Applicant.

By Advocate Shri G.D. Bhandari.

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, N. Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road, N. Delhi. Respondents.

By Advocate Shri D.S. Jagotra.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the respondents' letter dated 9.4.1991 appointing him to officiate as Assistant Superintendent purely on ad hoc basis. He claims that he is entitled to the benefit of the judgement/order dated 30.7.1990 in O.A. 214/87 which he had filed earlier in the Tribunal (Principal Bench).

2. In O.A. 214/87, the short point which was considered by the Tribunal was whether the applicant was a Scheduled Caste (SC) candidate or not when he was appointed as Assistant Station Master (ASM) on 15.9.1966 or he should be treated as a SC candidate from 19.11.1985 when, according to the respondents, he had submitted a certificate to that effect. The Tribunal in a detailed judgement has held that

82

(2)

the applicant was a SC candidate from the very beginning and it is not open to the respondents to treat him as SC only from 1985. Consequently, the Tribunal had quashed the impugned order dated 15.1.1987 passed by the respondents and directed that the applicant shall be entitled to all the consequential benefits as admissible to him under the rules according to his seniority, treating him as SC candidate from the very beginning of his appointment on 15.9.1966 as ASM. The applicant has retired from service with effect from 31.10.1992.

3. In compliance of the aforesaid order of the Tribunal dated 30.7.1990, the respondents have promoted the applicant in the grade of Rs.1600-2660 with effect from 20.6.1991. In the order dated 17.2.1992, it has also been stated that the Selection has been stayed in another case filed by Shri Madan Lal Gupta, officiating Assistnat Supdt., New Delhi, (O.A 1963/88) before the Tribunal. That O.A. has since been disposed of by the Tribunal by order dated 3.2.1994. Shri G.D. Bhandari, learned counsel for the applicant, has submitted that in the impugned order, the respondents have submitted that no junior has been promoted so far without undergoing the selection which is incorrect because the applicant is entitled for consideration for promotion to the higher posts in accordance with the Restructuring orders issued by the Railway Board. According to him, the applicant should have been considered for promotion with effect from 1.1.1984 when Shri R.S. Julka, who is admittedly junior to him, was promoted. In this connection, he has referred to Annexure A-5 order in which the applicant has been shown at Serial No.23 in the seniority in

8/

the cadre of 'T' group Head Clerk whereas Shri R.S. Julka has been shown at Serial No. 23-A. He has also submitted that Shri Julka was also a SC candidate. According to the learned counsel, the applicant is entitled to be considered for promotion as Assistant Superintendent on the basis of the service record in terms of the restructuring order dated 16.11.1984 and there is no question of selection as stated in the impugned order dated 17.2.1992. In this order, the respondents have themselves stated that as soon as the decision in the case of Shri Madan Lal Gupta is given, proforma fixation will be arranged. However, Shri D.S. Jagotra, learned counsel for the respondents, was not in a position to clarify what further orders have been passed by the respondents in pursuance of the Tribunal's order in OA 1963/88. We are unable to appreciate the stand taken by the respondents in their reply that it was only after 19.11.1985 that they have treated the applicant as SC and not from the date of his appointment. This stand is not only unreasonable and arbitrary but totally contrary to the Tribunal's order dated 30.9.1990 in OA 214/87.

4. In the facts and circumstances of the case, the O.A. succeeds and is allowed with the following directions:

- (a) The impugned order date 17.2.1992 is quashed and set aside;
- (b) In terms of the Tribunal's order dated 30.7.1990, the respondents shall consider the applicant's service from the date of his appointment on 15.9.1966 as ASM under the SC category and grant promotions due to him in the higher posts from the date his juniors have been promoted in these posts;

8.

(V)

(c) The applicant ~~shall~~ also be entitled to all consequential benefits, including the arrears of pay in the higher posts, allowances and recalculation of his retiral benefits from the due dates in accordance with the rules and instructions;

(d) The aforesaid action shall be taken by the respondents within three months from the date of receipt of a copy of this order.

(e) In the facts and circumstances of the case, we consider it appropriate to impose a cost of Rs.2000/- in favour of the applicant and against the respondents.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Antligi
(S.R. Adige)
Vice Chairman (A)

'SRD'