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Central Administrative Tribunal
Principal Bench

O.A. 1235/92

New Delhi this, the 3rd day of October, 1997

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

Hira Lal Suri,
S/o Shri Sita Ram Suri,
R/o F-453, Sector-9, New Vijay Nagar,
Ghaziabad. ... Applicant.

Applicant in person

Versus

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Chief Commercial Superintendent (Catering),
Northern Railway, Baroda House,
New Delhi.
3. Union of India,
Ministry of Railway through
Secretary,
Rail Bhawan,
New Delhi. ... Respondents.

By Advocate Shri R.L. Dhawan.

O R D E R

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

The applicant has filed this application seeking a direction to the respondents to regularise him and to give him the pay scale of Assistant Superintendent (Catering) with effect from the date of his appointment, i.e. 6.2.1989 with all consequential benefits.

2. The applicant submits that he was working as Head Clerk when the Chief Commercial Superintendent (Catering) passed an order dated 2.6.1989 in which it is stated that the applicant has been posted to deal with the subjects presently

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being dealt with by Shri S.D. Asthana, Assistant Superintendent who is due to retire in August, 1989. He states that he had continued to work on that post till the filing of the O.A. i.e. even after Shri S.D. Asthana retired in August, 1989. The scale of pay of Head Clerk is Rs.1400-2300 and that of Assistant Superintendent (Catering) is Rs.1600-2660. In the circumstances, the applicant has claimed that he is entitled to the scale of pay of Rs.1600-2660 w.e.f. 2.6.1989 with all consequential benefits as he had been appointed in that grade by the order of the Chief Commercial Superintendent(Catering) dated 2.6.1989.

3. The respondents have denied the above averments. They have stated that as per the office order dated 2.6.1989, he was assigned the work of Profit and Loss Account/Sales-tax seat and another senior clerk was posted to assist him. They have submitted that this order was merely an order for distribution of work and according to them the Clerks/Senior Clerks/Head Clerks and Assistant Superintendent have worked on this seat. They have denied that the petitioner was posted as Assistant Superintendent in the grade of Rs.1600-2660 and they have also submitted that he was not the seniormost among the Head Clerks and, therefore, was not entitled to be posted as Assistant Superintendent. They have, therefore, submitted that as the applicant was never appointed as Assistant Superintendent (Catering) and the work had also been done at different times by the persons holding different grades, he cannot be given the scale of Assistant Superintendent (Catering) of Rs.1600-2660. They have also relied on the order dated 9.8.1991 (copy placed on record) to

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show that the posting of the applicant was simply a seat adjustment and he had not shouldered any higher responsibility nor his case was recommended for officiating allowance.

4. We have heard the applicant in person and Shri R.L. Dhawan, learned counsel for the respondents and have also seen the records including the rejoinder filed by the applicant.

5. It is seen from the records that the applicant ^{has} himself based his claim that he had been appointed as Assistant Superintendent by the order passed by the Chief Commercial Superintendent dated 2.6.1989. In this order, it has been stated that the Chief Commercial Superintendent (Catering) had decided that the applicant (Head Clerk) may be posted to deal with the subjects presently being dealt with by Shri S.D. Asthana with immediate effect. Shri S.D. Asthana, Assistant Superintendent who is due to retire in August, 1989 will guide the applicant. The order goes on further to deal with the posting of certain other persons in various seats for dealing with the Miscellaneous work of contractual catering in a number of stations. The applicant has not been able to produce any order appointing him as Assistant Superintendent (Catering) and he relies solely on the order passed by the Chief Commercial Superintendent (Catering) dated 2.6.1989. The respondents have also brought to our notice an order dated 9.2.1990 by which one Shri Sunil Charles Nigam - Head Clerk was promoted in the catering section as Assistant Superintendent on 2.9.1990. As mentioned earlier, no such order has been produced by the applicant promoting him to the post of Assistant Superintendent (Catering) and we are unable to agree with his contention that the order of 2.6.1989 is

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itself a promotion order. This order cannot be treated as a promotion order entitling the applicant to the higher grade pay of Rs.1600-2660 or for regularisation in that post w.e.f. 2.6.1989.

6. In the facts and circumstances of the case, we do not find any merit in this application. The same is accordingly dismissed. No order as to costs.

R. K. Ahooja

(R.K. Ahooja)
Member (A)

SRD

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)