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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1867/93

New Delhi: this the 17th day of AUGUST, 1999.

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

HON'BLE MR. P. C. KANNAN, MEMBER (J)

Shri B. D. Kalra,
S/o Shri Bansi Ram,
TTE, Railway Station, Delhi
Sarai Rohilla
and 3 ors as per memo of parties Applicants.
(By Advocate: Shri B. S. Mainse)

Versus

Union of India through

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

2. The Divl. Rly. Manager,
Northern Railway,
Bikaner.

3. Shri Vijay Malik,
TTE, Rewari Rly. Stn.,
C/o Divl. Personnel Officer,
Northern Railway,
Bikaner. Respondents.

(By Advocate: Shri R. L. Dhawan for R-2)
Shri A. K. Bhardwaj for R-3.

ORDER

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

Applicants impugn respondents' order dated 27.7.93 (Annexure-A1) assigning Respondent-3's seniority as TTE in grade Rs.1200-2040 (P.S) w.e.f. 25.1.76.

2. Heard both sides.

3. Applicants themselves admit (para 4.4 of OA No. 3) that Respondent/commenced working as Brakeman in grade Rs.225-308 (RS) w.e.f. 25.1.76. It is not denied that

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at that time the 3rd Pay Commission's scales were in force, and while posts carrying a pay/pay scale the maximum of which was Rs.290/- or less were Group 'D' posts, those posts whose pay/pay scale carried a maximum of over Rs.290/- but below Rs.900/- were categorised as Group 'C' posts. Hence there is no doubt in our mind that applicant's appointment as Brakeman was to a Group 'C' post. This is further confirmed, if confirmation at all was needed, by the fact that the Railway Board in its letter dated 30.10.87 after the 4th Pay Commission's scales had come into force, clarified that posts in the scale of Rs.825-1200 (which was the replacement scale of Rs.225-308) and above would be Group 'C' posts other than posts which fell in Group 'B' and Group 'A' category.

4. As Brakeman, Respondent No.3 was a member of the running staff and by Railway Board's instructions dated 2.9.77 circulated under Northern Railway, Printed Sl.6845 (Annexure-R4), in the case of running staff 30% should be added to the minimum as well as maximum of the scale of pay for identifying equivalent posts. Accordingly upon applicants decategorisation as Brakeman on the basis of the medical report dated 25.8.81 (Annexure-R2), no irregularity or illegality can be said to have been committed by respondents in absorbing him in alternative post of Ticket Collector in grade Rs.260-400, on the basis of the recommendations of the duly constituted screening Committee vide order dated 5.10.81 (Annexure-R3), subject to his passing P-6 course in Zonal Training School, Chandausi in the first attempt, which respondents state he did.

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5. Applicants themselves admit in para 5.3 of the OA that as per rules contained in IRBM (Rule 1313) as well as Railway Board's circular dated 26.8.64 (Annexure-A7) the seniority of medically declassified staff absorbed in alternative posts have to be allowed in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade. As the post of Brakeman, like that of Ticket Collector is a Group 'C' post, and the equivalent grade of Rs.225-308 plus 30% running allowance comes to Rs.260-400, there is no legal infirmity in fixing the seniority of Respondent No.3 as Ticket Collector with reference to the length of service put in by him as Brakeman.

6. Applicants have contended that the ADMO, Rewari had recommended light duty to applicant for a period of 3 months only, owing to leg injury he had suffered as a Brakeman and respondents had put him to work as T.C. for 3 months only, but he manoeuvred, and got himself declared failed in the vision test, although he was not due for the same, and then got himself permanently absorbed as T.C.

7. Then allegations of manoeuvring and manipulation have been denied by respondents. We note that applicant was medically examined by the DMO, Bikaner and recommendation for his absorption as T.C. was made by a duly constituted Screening Committee consisting of senior railway officials. Prima facie we have no reason to believe that these reports/recommendations were tainted by bias or favouritism.

8. It has also been contended on behalf of applicants

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that earlier seniority lists issued by respondents in 1982 and 1991 in which respondent No.3 was shown as junior to them, which had not been challenged by Respondent-3, and had thus become final and the same could not be disturbed now. While there is no doubt that the seniority of Govt. employees once fixed should not be lightly disturbed, this proposition cannot be made so inflexible such that even when official respondents are satisfied that as per their own rules and instructions, the seniority of an employee requires correction, the same is denied because that employee had not moved in the matter. Hence this ground also does not avail the applicants.

9. It has also been urged that respondents favoured respondent No.3 by absorbing him as TC because medically declassified running staff should normally be given preference only in categories such as power controller etc. vide letter dated 3.11.71. As long as there was no bar to absorption of Respondent No.3 as T.C., if the duly constituted Screening Committee considered him suitable for the alternative post of T.C., and he was absorbed then, it cannot be said that there has been any violation of Govt. instructions or deliberate favouritism shown to him.

10. It has also been contended that failure to give predecisional hearing to applicants is a violation of the principle of natural justice. It is the seniority of Respondent No.3 which was being redetermined in accordance with respondents' own rules and instructions and not that of the applicants. There is nothing in law, that requires that all those persons whose names find mention in the seniority list be heard before the seniority of Respondent No.3

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Was redetermined. The question of giving a predecisional hearing to applicants would have arisen if their own seniority was being redetermined but that is not the case here. Hence this ground also fails.

11. Under the circumstance, in our view this OA warrants no judicial interference. Shri Mainee has cited a large number of cases to support his foregoing contentions including SLR 1975(2) 255, SLJ 1998(3) 28; ATR 1988(1) 26; ATR 1989 (2) 23; JT 1993 (3) 487; SLJ 1992(2) 440; SLJ 1991(2) 73; ATC 1997(1) 679; 1990(1) ATR 265; SLJ 1998 (3) SC 50; and ATC 1987 (5) 31 but in the facts and conspectus of the case as discussed above, none of these rulings advance the applicants' claim.

12. The OA is dismissed. No costs.

P. C. Kannan
(P. C. KANNAN)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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