

CAT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1988/93
T.A. No.

199

3-2-1998

DATE OF DECISION

Shri Gian Chand

Petitioner

Sh. G.D. Bhandari

Advocate for the Petitioner(s)

VERSUS

UDI through GM & O-s

Respondent

Sh. P.S. Mahendru

Advocate for the Respondent

CORAM

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

Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal

Lakshmi

(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 1988/93

New Delhi this the 3rd day of ~~February~~ ^{FEBRUARY}, 1998

(12)

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

Gian Chand,
S/o Shri Parma Nand,
Ticket Collector,
Northern Railway,
Kurukshetra.

.... Applicant.

By Advocate Shri G.D. Bhandari.

Versus

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

By Advocate Shri P.S. Mahendru.

O R D E R

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

The applicant who was working on temporary ad hoc arrangement as Ticket Collector is aggrieved by the respondents' order dated 20.8.1993 by which they have reverted him from that post to his substantive post of Group D.

2. The applicant has submitted that by order dated 5.9.1981 which is in terms of the DPOL letter dated 28.8.1981, he was allowed to work as Ticket Collector in the grade of Rs.260-400 (RS) on temporary ad hoc arrangement till such time permanent employee is posted by DRM office at Kurukshetra (KKDE station). In this letter, it has also been mentioned that he has

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already worked on the same post earlier by letter dated 20.4.1981. Shri G.D. Bhandari, learned counsel, has submitted that in pursuance of the order dated 5.9.1981 the applicant continued as Ticket Collector for about 12 years till he was suddenly reverted by the impugned order dated 20.8.1993. He has stated that no reasons have been given in the impugned order. The Tribunal by order dated 20.10.1993 had kept the impugned order in abeyance and hence the applicant had continued in that post for a further period of more than 4 years. The learned counsel relies on the judgement of the Supreme Court in Bhikari Singh & Ors. Vs. Union of India (SLP No. 3292/97) dated 27.9.1991 (Annexure A-13). The learned counsel for the applicant, therefore, submits that since the applicant has been continuing in the post of Ticket Collector for more than 15 years, a direction should be given to the respondents to regularise his posting as Ticket Collector giving him the effect of the judgement of the Supreme Court in Bhikari's case (Supra).

3. The respondents in their reply have denied the above averments stating that the applicant was put to work by the Traffic Inspector, Panipat and, therefore, he has no right to a permanent post of Ticket Collector. They have also submitted that no junior to the applicant has been regularised in Group 'C' as TCR except those who had qualified in the selection for that post for which the applicant had appeared in 1990 and had not qualified. They have, therefore, submitted that the application may be dismissed as there is no merit in the case.

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4. The applicant has filed a rejoinder in which he has stated that the respondents have not replaced him by any duly selected person and, therefore, he had continued to work in the post uninterruptedly. There was, therefore, no reason to revert him which was also contrary to the respondents' own instructions.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. The respondents in their order dated 5.9.1981 have stated that the applicant was appointed as Ticket Collector on temporary ad hoc arrangement till such time permanent employee was posted by the DRM office. We also note that in the selections held for the post in 1990 the applicant did not qualify. However, the respondents have not denied the fact that even after he had failed to qualify, they allowed the applicant to continue in that post till issuance of the impugned order in August, 1993. The promotion order of the applicant though made on a local arrangement basis clearly stipulates that while he cannot claim seniority over any employee who will be posted by the Division Office, he may be reverted at any time on resumption of permanent employee and that the arrangement was to continue till such time permanent employee was posted by the DRM office. We do not find any of these reasons given in the impugned order reverting the applicant to his substantive post.

J.P.

(15)

7. In the circumstances of the case, as the impugned order has also been passed without giving the applicant any show cause notice and he has been reverted from the post of Ticket Collector, not on any of the reasons given in the order of his appointment in September 1981, the same is not sustainable. Hence, the impugned order is quashed and set aside, leaving it open to the respondents to take action in accordance with law. However, as the applicant was only holding the post of Ticket Collector on purely ad hoc arrangement basis, his claim for regularisation in the post of Ticket Collector, especially when he has not qualified in the selection is rejected.

8. In the result, the application is partly allowed, as above. No order as to costs.

Lakshmi
(Smt. Lakshmi Swaminathan)
Member (J)

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

SRD