

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 28th day of August 1998.

Original Application no. 927 of 1996.

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. S.L. Jain, Judicial Member

Smt. Manjusha Goswani, w/o Shri Lok Ranjan Goswami, working as Stenographer, Central Railway, Jhansi, D.R.M.(P) Office, Resident of H. No. 212, Outside Khanderao Gate, Civil Lines, Jhansi. U.P.

.... Applicant

C/A Shri H.P. Pandey

Versus

1. Union of India through the General Manager, Central Railway, G.M.'s Office, Bombay V.T.
2. Divisional Railway Manager, Central Railway, D.R.M.'s Office, Jhansi.

.... Respondents

C/R Shri A.K. Gaur.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks the following reliefs through this application:-

i. A direction to the respondents to assign the applicant's seniority in accordance with rules directly at Sl. no. 17 above Shri Lalji Sinha and below Sl. no. 16 Shri S.N. Sharma in seniority

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list dated 06.11.95.

ii. A direction to the respondents to treat the applicant senior to employees not possessing requisite minimum qualification of 100 words per minute.

iii. A direction to the respondents to protect the applicant's seniority consequential to decentralisation over her erstwhile juniors.

iii. A direction to the respondents to grant consequential benefits of promotion over her juniors.

3. The facts of the case mentioned by the applicant in her application are that she was recommended to the post of stenographer in the scale of Rs. 1200-2040 by Railway Recruitment Board, Bhopal and had passed speed test of 100 words per minute and placed 2nd in the panel of candidates recommended. She was appointed to ^a temporary work charged post stores under Deputy controller of ^a Jhansi by letter dated 01.03.85. She made mutual exchange application dated 16.07.85, but Shri P.V. Padma Nabhan who had earlier agreed to the exchange withdrew. Therefore, she sought transfer to the Office of Controller D.R.M, Jhansi which was forwarded by Deputy ^a of Stores on 11.09.86. The Divisional Railway Manager by his letter dated 10.10.86 was communicated the decision for absorbing the applicant in the division and this was confirmed by letter of Deputy C.O.S. dated 31.12.86. Since no action resulted, the applicant submitted request for transfer to D.R.M's office Jhansi on medical ground which was forwarded by Deputy C.O.S. on 31.12.86. The transfer order was ultimately issued on 30.01.86 and the applicant resumed her new posting on 06.02.87. The applicant was shown junior to Shri P.V. Padma Nabhan in seniority list circulated on 15.07.87 against which she preferred a representation. On 01.08.86 the

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process of decentralisation of stenographers cadre on divisional basis started and was given final shape by notification dated 25.09.90. Thereafter, in the seniority list dated 21.03.91, the applicant was shown junior to Shri Vijay Tomes who was earlier her junior. The stenographers who were brought on divisional strength after de-centralisation were allowed to retain their original dates of seniority in their respective units treating their transfer to be on administrative grounds. Thereafter, another seniority list was issued on 06.01.93. The applicant was placed at sl. no. 33 and her erst while juniors of 1986 panel were placed in higher positions from 25. to 31. She had claimed that the employees shown at sl. no. 17, 18, 21, 23B, 24 & 28 had not passed requisite speed test of 100 word per minute and that sl. no. 22, 23A, 23B, 25, 27, 28, 31 & 32 ^{had} come on Jhansi division strength after de-centralisation but were allowed to retain their original seniority. The applicant claims that she had represented against wrong assignment of seniority by her representations dated 09.04.90, 10.04.91, 24.02.92, 16.03.93 & 24.03.93 and had also filed O.A. 1262/93 resulting a direction to the respondents to dispose of the applicant's representation by ^a reasoned order. She had to file contempt application after her claim was rejected by order dated 31.01.95 by the respondents.

4. Arguements of Shri A.D. Prakash for the applicant and Shri A.K. Gaur for the respondents were heard. Pleadings on record have been taken into consideration.

5. The first ground on which the applicant has claimed seniority over others is that her transfer from office of

Deputy Controller of Stores, Jhansi to the office of D.R.M.'s Jhansi should not be considered as transfer on her own request because when she had sought mutual exchange, her request was turned down. Later on she was given transfer on humanitarion ground. Learned counsel for the respondents had mentioned in their counter affidavit that the applicant had applied for request transfer and had consented to abide by term & condition of request transfer and had given undertaking to that effect dated 07.02.87. It is clear from the annexures CA-1, 2 & 3 submitted by learned counsel for the respondents that the applicant was given request transfer.

Therefore, the contention of the applicant that she was given transfer on her own request but on humanitarion ground can not be accepted.

6. The application has contended that her transfer was not actually transfer but change from one unit to another. This contention has been raised on the ground that she was posted against a temporary work charged post in the office of Deputy Controller of Stores and did not have a lien on any post. However, this contention of the applicant can also not be accepted because the record shows she was clearly transferred on request from establishment of Deputy Controller of Stores, which was an establishment coming directly under the Zonal Head Quarters where as the post to which she was transferred to was on the strength of the Divisional Head Quarter. Thus it clearly shows that the transfer was from one unit to another and the rules of request transfer were squarely applicable to this case.

7. Another contention of the applicant is that by process of de-centralisation, which gives benefits to her erst while junior colleagues from original date of seniority, would also give her original seniority after the process

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decentralisation was completed. She should, therefore, have been placed at Sl. no. in the seniority list on which she was placed on the basis of her original seniority and not based on her seniority after effecting her request for transfer. It is, however, clear from the case of the applicant that she had resumed her duty in February 1987 while the process of de-centralisation was completed on 25.09.90. The application has not shown that the cadre of stenographers was put on hold with effect from 01.08.86 because of impending de-centralisation. Therefore, her request transfer having been completed in February 1987 and she got the lower seniority on account of her accepting terms and conditions of request transfer can not claim that she should be given the benefit of original seniority because the intention of the Government for de-centralisation had become known by the time she was allowed her request transfer.

8. The last important contention of the applicant is that she should be given seniority over those who were wrongly promoted to the scale of Rs. 1400-2600 although they had not qualified the speed of 100 word per minute in stenography. The basis on which the applicant has made this claim is not known. The respondents have mentioned in their counter reply that those who had been promoted to the scale of Rs. 1400-2300 had already passed 100 word per minute test in stenography. Therefore, the contention of the applicant can not be accepted.

9. In effect the application fails as lacking in merits and is, therefore, dismissed.

10. There shall be no order as to costs.

S.C. Dutt
Member-J

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Member-A