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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabd : Dated this 29th day of January, 2002

Original Application No.1332 of 1997.

CORAM :-

Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiquddin, J.M.

Sudhir Kumar Son of Sri Baldeu Prasad,

Working as Enquiry-Cum-Reservation Clerk,

Northern Railway, Prayag Railway Station,

Allahabad.

(Sri S. Ahmad, Advocate)

..... .Applicant

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Lucknow.
3. The Sr. Divisional Commercial Manager, Northern Railway, Lucknow.
4. The Senior Divisional Personnel Officer, Northern Railway, Lucknow.
5. Udai Pratap Singh
6. Ravi Shankar Verma
7. Anil Kumar Mishra
6. Rajesh Kumar Verma
9. Abhay Kumar Sinha
10. RK Sharma,
11. KP Goojar
12. Jai Sri Prasad
13. Sheo Chand Ram

All working as Enquiry-Cum-Reservation Clerks in the Lucknow Division of Northern Railway , under D.R.M. Northern Railway, Lucknow.

(Sri Prashant Mathur, Advocate)

..... . Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. S. Dayal, A.M.

This application has been filed for setting aside the order dated 26-8-1997 passed by respondent no.4 as also the provisional seniority list dated 31-12-1996 issued by respondent no.4 which shows the applicant junior to persons shown at Serial Nos.1 to 23. A direction is also sought to the respondents to promote the applicant to the post of Head Enquiry-Cum-Reservation Clerk in the Grade of Rs.1400-2300 from the date his juniors have been promoted.

2. The applicant has claimed that he was working as Senior Tele-Signaller Grade Rs.1200-2040 since 1986. Vide letter dated 4-8-1987, he alongwith another was declared surplus in Tele-Signaller Cadre and it was directed that they should be imparted training for a fortnight for Enquiry-Cum-Reservation Clerk. He claims that he was posted Enquiry-Cum-Reservation Clerk at Prayag after completion of training of 10 days. He claims to have worked upto 1990 but since he was not assigned seniority in the cadre of Enquiry-Cum-Reservation Clerk, he moved an application dated 2-2-1990 for formal change of his cadre from Tele-Signaller to that of Enquiry-Cum-Reservation Clerk and to fix his seniority. He claims that the change of category was on administrative ground as he has been declared surplus in the cadre of Tele-Signaller. The applicant was asked whether he would accept bottom seniority vide letter dated 13-6-1990 and he conveyed his acceptance to be given bottom seniority vide letter dated 23-8-1990. He claims that by letter dated 26-8-1997 promotions were made to the post of Head Enquiry-Cum-Reservation Clerk Grade of officials who were junior to him because they have joined as

Enquiry-Cum-Reservation Clerk on date later than the date of joining of the applicant. He claims that if correct seniority would have been assigned, he would also have been promoted as promotion is based on seniority and his services had always been appreciated by his superiors.

3. We have heard arguments of Sri Shamim Ahmad, counsel for the applicant and Sri Prashant Mathur, counsel for the respondents.

4. Learned counsel for the applicant has claimed that Para 311 of the Indian Railway Establishment Manual Vol I enables the applicant to grant of seniority from the date of appointment to the grade of the Railway servants from one cadre to another in the interest of administration. He also states that Para 312 of the I.R.E.M. Vol I stipulates that the railway servants would be given bottom seniority below those who were confirmed, temporary and officiating railway servants in the grade if they were transferred on their own request. Learned counsel for the applicant states that the applicant is entitled to benefit of Para 311 of the IREM Vol I. He has also placed before us a copy of the letter of Railway Board No. E(NG)/II-84/RE-I/10 dated 21-4-1989 in which it has been laid down that where surplus staff is deployed to other units/departments which constitute a different seniority unit, and if only a small number of staff has been rendered surplus and they have to be transferred to various units of other departments against vacancies of duly sanctioned posts, they can be suitably adjusted in those units with their full seniority and merging their seniority in the respective units.

5. Learned counsel for the respondents on the other hand contended that the services of the applicant have not been regularised in the cadre of Enquiry-Cum-

Reservation Clerk before 2-12-1991 and, therefore, the seniority of the applicant would only begin from that date. It is also contended that the seniority has been assigned to the applicant from 2-12-1991 on account of the representation of the applicant dated 2-2-1990 and his undertaking to accept bottom seniority given on 23-8-1990.

5. We find that the respondents have admitted that the applicant was found surplus in the Tele-Signaller Cadre and was imparted training for the post of Enquiry-Cum-Reservation Clerk. It has not been denied that the applicant started working on the said post after completion of a fortnight training as Enquiry-Cum-Reservation Clerk. It is claimed that this step was taken in order to avoid their retrenchment which was imminent after they were declared surplus.

6. Thus, the respondents contention is that the sanction of change of category was necessary and the applicant could be granted seniority only after the said sanction was given.

7. We find that the applicant had been declared surplus and was made to take ^{the post of L} Enquiry-Cum-Reservation Clerk ^{and L} ^{was L} joining of that cadre ¹⁹⁸⁷ at the instance of the respondents. The applicant worked continuously after completion of his training in August ¹⁹⁹², on the post of Enquiry-Cum-Reservation Clerk. Officials promoted as Head Enquiry-Cum-Reservation Clerk by order dated 26-8-1997 had joined as the Enquiry-Cum-Reservation Clerk in the years 1987, to 1990, last one name is Sri Shiv Chand Ram.

8. We have considered the provisions of the circular letter of the Railway Board dated 21-4-1989 readwith Para 311 of the IREM Vol I and we consider that the date of appointment of the applicant to the grade of Enquiry

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Cum-Reservation Clerk in 1987 after completion of his training, is entitlement of the applicant, which cannot be denied by the respondents.

9. We, therefore, direct the respondents to place the applicant appropriately by granting him seniority from the date of completion of his training which started from 4-8-1987 and the date the applicant joined a working post on completion of that training-. The name of the applicant shall be interpolated at the appropriate place and he shall be granted consequential benefits on notional basis till the date of taking over charge as Head Enquiry-Cum-Reservation Clerk on completion of selection formalities within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

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Member (J) Member (A)

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