

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.775 of 1997.

Allahabad this the 03rd day of March 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mr. D.R. Tiwari, A.M.

Phool Chandra
 son of late Sri Ram Prasad Yadav,
 working as Guard Passenger, Northern Railway,
 Allahabad.

.....Applicant.

(By Advocates: Sri R.S. Yadav/ Sri A.K. Yadav
 Sri B.P. Yadav)

Versus.

1. Divisional Personnel Officer,
 Northern Railway, Allahabad.
2. Chief Controller, Northern Railway,
 Allahabad.
3. K.P. Rajak, working as Passenger Guard,
 Northern Railway, Allahabad.

.....Respondents.

(By Advocate : Sri Mohd. Yusuf)

O_R_D_E_R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri R.S. Yadav learned counsel for the
 applicant, None has appeared for the respondents. We
 have perused the pleadings.

2. By order dated 09.07.1994, the applicant was
 promoted from the post of Senior Goods Guard in the scale
 of Rs.1350-2200 (RPS) to the post of Passenger Guard in the
 scale of Rs.1350-2200 (RPS) pursuant to his selection

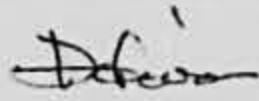
made vide letter dated 04.04.1994. The applicant was posted under Station Superintendent, Karpur. However, the applicant declined to accept promotion for a period of one year. Consequently by order dated 18.10.1995 (Annexure 1) he was promoted as Passenger Guard in the pay scale of Rs.1350-2200 (RPS) under Chief Controller Allahabad after expiry of period of one year. Sri K.P. Rajak who too was promoted from Goods Guard to the post of Passenger Guard and posted under Mukhya Niyantarak Tundla vide order dated 29.11.1994 (Annexure 2) too expressed his unwillingness to join the post for a period of one year. Consequently by order dated 17.02.1995 he was allowed to continue as Goods Guard at Allahabad but subsequently by order dated 22/23.6.95 his refusal was cancelled and he was given out of turn posting as Passenger Guard under Chief Controller, Allahabad. It is not clear under what circumstances, the order dated 22/23.6.95 was passed without reference to the earlier order dated 17.02.1995 whereby his request not to join promotional post for a period of one year was accepted. The grievance of the applicant is that the subsequent order dated 22/23.6.1995 affects the seniority of the applicant.

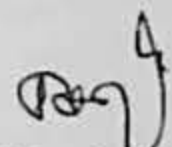
3. In para 6 of the counter affidavit, it is admitted that refusal ^{by} K.P. Rajak was accepted vide order dated 17.02.95. Hence, the plea that refusal given by 3rd respondents automatically came to be cancelled on his posting as Passenger Guard at Allahabad in scale of Rs.1350-2200(RPS) "On out of turn basis as special case" cannot be accepted. We are, however, of the view that the ends of justice would be met if the O.A is disposed of with a direction that in case the applicant files representation

[Signature]

to the Competent Authority the letter shall decide the same by passing a reasoned order within a period of three months from the date of receipt of representation alongwith copy of the order.

4. The O.A. is disposed of accordingly with no order as to costs.


Member-A.


Vice-Chairman.

Manish/-