

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 30th day of August, 2001.

Original Application No.1049 of 2001.

CORAM :-

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

Hon'ble Mr. Rafiuddin, J.M.

Brahma Nand,

Son of Late Sri R.K. Saxena,

Resident of 492 Grain Shop Colony,

N.R. Tundla.

(Sri KK Mishra, Advocate)

..... Applicant

Versus

1. Union of India through

General Manager,

Northern Railways,

Baroda House,

New Delhi.

2. Divisional Railway Manager,

Northern Railways

Allahabad.

3. Divisional Personnel Officer,

N.R. Allahabad.

4. Sr. Divisional Signal & Telecom Engineer,

N.R. Allahabad.

5. Sushil Kumar Saxena,

O.S. II (Under S.S.E.Signal),

N.R. Aligarh.

(Sri AK Gaur, 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 2-8-2000. A further direction to the respondents is sought to direct the respondents to determine seniority of the applicant in the cadre of Head Clerk, Grade Rs.1400-2300 from the date of promotion of respondent no.5 in the cadre of Head Clerk. A further direction sought is to give all the consequential benefits on the basis of determination of seniority in the grade of Head Clerk from the date of promotion of respondent no.5.

2. The case of the applicant is that he was working as M.S.M. (Mechanical Signal Maintainer) Grade I in the pay scale of Rs.380-560. and on medical de categorisation he was absorbed as Senior Clerk in the grade of Rs.330-560. Since the applicant was working as M.S.M. Grade I w.e.f. 13-2-1983, his seniority in the cadre of Senior Clerk was fixed from 13-2-1982. The applicant claims that respondent no.5 was called for /promotion to the post of senior Clerk which was selection post by notification 26-12-1986 and was promoted on regular basis as Senior Clerk by letter dated 10-7-1987. It is admitted that respondent no.5 and other candidates were promoted as Senior Clerk on ad hoc basis earlier. Learned counsel for the applicant states that respondent no.5 has been promoted as Head Clerk w.e.f. 1988 while the applicant was promoted to officiate as Head Clerk by letter dated 13-12-1990. It is claimed that when the respondent no.5 was promoted as Head Clerk, he was junior to the applicant. It is also mentioned that a provisional seniority list of the Head Clerk was drawn although it was never published. It is also mentioned

that six candidates including respondent no.5 were called for appearing in the written test for promotion to the post of Assist. Supdt. in the scale of Rs.1600-2600(RPS) on 29-1-1992. The dispute was raised regarding the seniority of these candidates when it came to be known that respondent no.3 and other candidates have been regularised in the cadre of Head Clerk u.s.f. 1-10-1980. The applicant has also mentioned that in the final seniority list of Head Clerks published on 30-6-99 the applicant was placed at Serial No.4 whereas the name of respondent no.5 is not included in the list as he has already been promoted to the Grade of OS II.

3. We have heard arguments of Sri KK Mishra, counsel for the applicant and Sri AK Gaur, counsel for the respondents.

4. Learned counsel for the applicant claiming the relief in this OA seeks to rely upon the judgement of the Apex Court in the case of State of Bihar Vs. Kameshwar Narain Singh 2000(3) ESC 1765 SC. Learned counsel for the applicant has on the ground of limitation stated that the said judgement lays down that power to condone the delay in approaching the court has been conferred upon the courts to enable them to do substantial justice to parties by disposing of matters on merits. He claims the benefit of the said judgement. The Apex Court has laid down that a liberal approach should be adopted as a litigant does not stand to benefit by lodging an appeal late and the matter which is meritorious is thrown out on the ground of limitation at the very threshold .

5. In the case before us the applicant has challenged the seniority list of the Head Clerk amended on the basis of his representation dated 17-4-2000 by placing him at

serial no.1(a) between Sri D. Ghosh and Sri K.C. Srivastava in the seniority list issued by the office letter dated 30-6-1999 (Annexure-A-9). The applicant is thus upgraded from Serial No.4 in the said seniority list to just below Serial No.1. The applicant seeks to challenge seniority of others who are now included in the cadre of OS-II which is one level above the current level of the applicant. The applicant seeks to revise the seniority w.e.f. 1988 onwards in the cadre of Head Clerk and OS Gde II. We do not consider that the benefit of the judgement cited by the learned counsel for the applicant is applicable to the facts of the case before us.

6. The learned counsel for the applicant after hearing the judgement as dictated till this stage confines his relief to grant of benefit to the applicant on account of change in his seniority as per the ^{impugned} order dated 2-8-2000 from Serial No.4 to Serial No.1(a). The applicant is permitted to approach the respondents for grant of the benefits which are specifically claimed on the basis of his elevation in seniority within a period of one month which shall be considered by the respondents within three months from the date of supply of a copy of this order. The OA is disposed of accordingly with no order as to costs.

Rabinanda

Member (J)

Long

Member (A)

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