

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration T.A.NO.1041 of 1986

R.D.Prasad Applicant

Vs.

Union of India & Others.... Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C.Srivastava, V.C.)

This is a transferred case under section 29 of the Administrative Tribunals Act, 1985. The applicant filed a suit in the Court of Munsif, Gorakhpur in the year 1984. During the pendency of this case the applicant was retired from service. The applicant prayed for that a decree may be passed in favour of applicant, declaring that he is entitled for the post in Grade-I in the scale of Rs. 380-560/- . Later by way of the amendment he prayed that he may be awarded or given all the benefits and emoluments including pensionary benefit of Grade-I scale Rs. 38/-560/- for which he is entitled under law. This further relief was claimed by him as he claimed in the amendment application that the persons working along with him are working in the said grade of Rs.380-560/- and Rs.425-700/-, but he ultimately retired in the grade of Rs.210-270/-. The applicant started his service career in the North Eastern Railway as Rake Attendant in the year 1952. According to the applicant he was the senior most in the parent department when he was shifted from Carriage to Electrical department and there he was also seniormost, and in the year 1972 his services were transferred to Electrical department to Air-Conditioned department and when he joined the Air-Conditioned department even at that time he was the only man of his cadre as the seniormost. By virtue of his seniority

he was entitled to the grade of Rs. 380-560/- and also for the post of Chargeman (Rs. 425-700/-) after selection with all emoluments and benefit. Despite 30 years of service, under the malafide intentions, the applicant has not been given grade or the designation of the post he has claimed, and the respondents have kept the applicant to the post of Air-Conditioned/Coach Attendant in grade of Rs. 210-270/- instead of the higher grade referred to above. With malafide intentions also seniority list was not prepared and the status of the applicant was not settled and he was may be deprived of his right.

2. The respondents have opposed the application even before the Trial Court wherein they filed a written statement in which it has been stated that there were posts of Rake Attendants in the Lucknow District, but after the divisionalisation only one post was retained at Lucknow. Subsequently the post of Rake Attendant was abolished at Lucknow and a decision was taken at the competent level to convert the post into Air Conditioned Coach Attendant, and the applicant was utilised against the said post. As per Avenue of promotions the post of Air Conditioned Coach Attendant is to be filled in through the media of Trade Test as such in order to regularise the applicant upon the post of Air Conditioned Coach Attendant, and it was imperative on the part of the applicant to have passed the prescribed Trade Test. The applicant was called in the Test, but he did not pass the Trade Test. As such it was not possible to call him in the Trade Test for next higher promotional grades. He submitted his representation but there was no question to allow the said representation which was considered at the local level. In reply to the amendment application it has been stated that the applicant is not entitled to the relief claimed in the amendment application as he retired as Air Conditioned Coach

Attendant in the scale of Rs.800-1150/- which he was holding on ad-hoc basis. He was called to appear in the Trade Test for the post of Air Conditioned Coach Fitter -III in the scale of Rs.260-400/ 950-1500 in which the applicant never worked even for a single day, and that is why his name was not included in the seniority list. The applicant refused to appear in the test and as such there is no question to give him higher grade and promotion.

3. The facts as indicated above so far as the seniority and the higher post of the pay scale is concerned the passing of Trade Test was incumbent and the applicant and the applicant did not pass the Trade Test, But according to the applicant he was never asked for Trade Test, although there was no requirement for Trade Test for the post of Air Conditioned and Coach Attendant. It has been stated by the applicant that all the 14 Rake Attendants except the applicant were called for Trade Test and they were appointed on different posts, and the applicant was illegally appointed on ad-hoc basis for a long period without any reason to the post of Air Conditioned Coach Attendant. So far as the Trade Test is concerned no circular has been produced before us and no evidence in this behalf has been tendered by the party. It is not clear that whether Trade Test ~~in fact~~ was necessary or not. In case the applicant was not called for Trade Test and was promoted on ad-hoc basis, there appears to be no reason why he will not be entitled to pensionary benefits because he worked on ad-hoc basis for few years. Accordingly we direct that in case the applicant was not called for Trade Test for which no proof whatsoever is available on the record, the applicant will be given the benefit of the working on adhoc basis as in the pay scale of Rs.380-560/- and let this matter be decided by the respondents within

a period of 3 months from the date of communication of this order. The application stands disposed of finally in these terms. No order as to costs.

Janabgarh
Member (A)

h
Vice-Chairman.

29th November, 1991, Alld.

(sph)