





appeared for selection test against 10% graduate quota scheme. He was called for selection on 3/6/81 for the post of Departmental Traffic Apprentice. He was selected for training as Departmental Traffic Apprentice vide order dated 6-1-82. A written test for selection from 75% promotion quota was also held, in which he was qualified. The result of the same was declared on 16-8-82. In the mean time he had also joined the training for departmental Traffic Apprentice in graduate quota scheme on 14-6-82 on the basis of order dated 6-1-82/8-6-82. After completion of training of 2½ years, the applicant was given promotion as Controller in the scale of Rs.470-750 on 31-1-85. While the applicant was in training as departmental Traffic Apprentice, there was restructuring of the posts of A.S.M./S.M.(Rs.330-560) Controller/Yard Master (Rs.455-700) and on account of restructuring there was upgradation and his juniors who were working in the scale of Rs.330-560 and Rs.425-640 were upgraded to the scale of Rs.455-700 and Rs.470-700, Rs.550-750 and Rs.700-900. A number of juniors were also upgraded to the posts of Controller in the pay scale of Rs.470-750 and subsequently to the grade of Rs.700-900 during the applicant's training period. A representation was given by the applicant in this regard, but the same was rejected by the respondents vide order dated 7-1-84. The review application has also been rejected by the General Manager on 14-10-1986. Feeling aggrieved against the same the applicant, contending that the departmental Traffic Apprentice is not a post, but it is a training period for the post of Controller and it is optional at the discretion of the Competent authority and the training being part of the service on the post of Controller, the seniority of the applicant on the post of controller would be reckoned from



the date of his selection for training but he has been deprived of the same and that is why he has approached this Tribunal praying that the order dated 7-11-89 be quashed and the seniority of the applicant as Section Officer in the pay scale of Rs.470-750 be fixed from 6-1-82 and the order dated 29-1-85 be modified and the benefit of the restructuring be given to the applicant and a direction be issued to the respondents that the training as the departmental Traffic Apprentice be not treated as dies non and the lien of the applicant be continued on the post.

2. The respondents have opposed the application and filed reply and thereafter supplementary reply.

3. According to the respondents, 75% of the posts are to be filled in on selection from willing staff of different categories and the A.S.M.(of Rs.330-560) are not eligible to appear in the said selection. They can be allowed to appear in the said selection if no candidate belonging to the grade of Rs.425-640 is available. The applicant was not an A.S.M. in the grade of Rs.425-640 and according to the respondents he was simply allowed to work in the post of Sr.A.S.M. in the pay scale of Rs.425-640 and Rs.470-750 from time to time against casualities. As such he was not eligible to be called against 75% quota. As he was a graduate and below 40 years of age he was allowed to appear in selection test for Departmental Traffic Apprentice training against 10% graduate quota. The benefit of restructuring was given to those Station Masters who were physically and regularly working as such and the applicant being selected for training of Departmental Traffic Apprentice, the question of conferring the benefit of restructuring did not arise at all. As the candidates who were working in higher

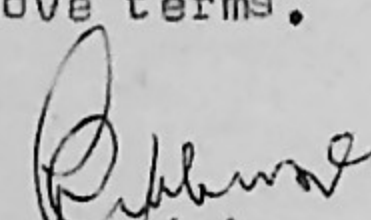


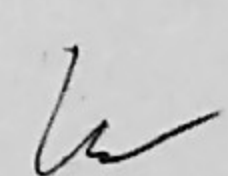
A2  
5 (14)

-4-

were available, the applicant was not allowed to appear in the said selection as he was working in the grade of Rs.330-560. The ~~lien~~ of the applicant was not terminated from the cadre of A.S.M. as a result of his selection for the post of Traffic Apprentice. The lien on a post is terminated on acquiring a lien on a permanent post outside the cadre which one holds. As such, he had a lien on the post of A.S.M.

4. It may be that the applicant was not entitled to appear for selection against 75% quota, but, of course, the benefit of restructuring is concerned, admittedly, the applicant was holding a lien on the post of A.S.M. when he was sent for training. Nowhere it is mentioned in the restructuring scheme that only those who are working physically and regularly as S.M. are eligible for the benefit of restructuring. It is also not mentioned anywhere in the <sup>who</sup> restructuring scheme that those <sup>who</sup> are holding a lien or sent for training are not eligible for the benefit of restructuring. Therefore, the respondents are directed to consider the case of the applicant for grant of benefit of restructuring scheme as ASM in the grade of Rs.330-560 notwithstanding the fact that he has appeared for the selection test of departmental Traffic Apprentice for which he was getting a training when this upgradation took place. Let this be considered within a period of 3 months from the date of communication of this order. The application stands disposed of in the above terms. No order as to the costs.

  
Member (A)

  
Vice-Chairman.

Dated: 24th March, 1993, Allahabad.

(tgk)