

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

T.A. NO. 26 of 1987

G.C. Dixit	...	Petitioner
	Vs.	
Union of India & others	...	Respondents.

Hon'ble A. Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(By Hon'ble A. Johri)

^{with} This petition has been received on transfer from Allahabad High Court under section 29 of the Administrative Tribunals Act 1985. In this petition the validity of the order passed by the Chief Personal Officer, Northern Railway revising the seniority list has been challenged. ^{2/} The petitioner who was working as Head Clerk had also sought ^{3/ stay} ~~and~~ against his reversion in pursuance of refixation of the seniority and on 2.1.1981, the same was granted in case he had already ^{3/} ~~not~~ been reverted.

2. The petitioner's case is that after his appointment as ASM in September 1962 he was declared medically unfit on 6.6.75 and was absorbed in the alternative job of a Senior Clerk on 25th October, 1975. ^{3/} Originally he was given seniority from the date of his appointment as A.S.M. i.e. 14th of September, 1962. ^{3/} On the basis of this seniority he was promoted as Head Clerk on 21.7.1978. Subsequently in connection

with a representation made by another person the Chief ^{3/}Personal ^{ne} Officer issued orders on 26.8.78 revising his seniority and a reversion order was issued reverting the petitioner from the post of the Head Clerk to that senior clerk on 8.9.78. The Petitioner's case is that once ^{3/}his seniority was fixed it could ^{3/}not be changed on the basis of a representation by ^{3/}a third person and without giving him any opportunity of showing cause against the proposed action. It has further been said in the petition that the grade of junior clerk at the relevant time i.e. 14th September 1962 when the petitioner was recruited as a ASM was lower than that of the ASM and therefore his seniority had to be fixed above all those junior clerks who have been promoted as Senior Clerks upto the date of his medical decategorisation. Instead of this seniority has not been determined with effect from 1.1.1973 i.e. the date when the post of ASM and Senior Clerk were given the same scales of pay i.e. when they were equated.

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3. In their reply to the petition the respondents have said that on medical decategorisation the petitioner was ^{3/}offer^{ed} an alternative job of Senior Clerk. The petitioner had come on transfer in the category of ASM to the Northern Railway in October, 1965. ^{3/}Originally he was working ^{3/}in the central railway. ^{3/}This transfer was made on his request on bottom

seniority in the Northern Railway.

4. We have heard the learned counsel for the parties. The contention of the learned counsel for the petitioner was that since the grade of ASM and Senior Clerk prior to 1.1.73 were Rs.130-240 and Rs.130-300 respectively and they were equated in 1.1.73 to the grade Rs.330-560 when the applicant became medically unfit for the post of ASM and was absorbed in Senior Clerk he should have been given seniority on the basis of his length of service in the ASM's grade. While the submission made by the learned counsel for the respondents was that since the equivalence^{2x} of the two posts^{3x} ~~were~~ ^{was} decided with effect from 1.1.73, the petitioner could only be given seniority with effect from 1.1.1973 and therefore the earlier order giving him the benefit of his service from the date of his appointment on the Central Railway i.e. 14.9.62 was incorrect. The learned counsel further submitted that in any case since the petitioner had come on transfer of bottom seniority he could have no case for consideration of his seniority from 14.9.62.

5. Annexure-1 of the petition is ^{3x} ~~the~~ ^{the} Central Railways circular No. 2654 which lays down that if a permanent railway employee is absorbed in an identical Scale, the period of service rendered by him ~~in~~ ^{3x} post

that of Senior Clerk i.e. that of ^{3/}junior clerk. At best what could be done would be that the post of ASM will be above ^{3/}that of ~~though~~ the post of Junior Clerk but just below the post of Senior Clerk. On the basis of this conclusion the petitioner's seniority has to be fixed below all senior clerks who were ^{3/ in} ~~in~~ position on 30.10.65 and not on the basis of ^{3/ in} ~~in~~ equalance granted with effect from 1.1.1973. Evidently the respondents, in revising a seniority on the basis of the ^{3/ in} ~~in~~ equalance of the two posts granted on 1.1.73, have given him benefit only from 1.1.1973. We do not consider this as a proper conclusion in regard to determination of the seniority of the petitioner.

7. In the above view we direct that the petitioner should be given benefit of his service with effect from 30.10.65 and after considering him ^{3/} ~~as~~ junior to all the Senior Clerks who were ⁱⁿ ~~in~~ position on this date. ^{3/} ~~and~~ His future promotion should be ^{3/} ~~be~~ regulated accordingly.

8. This petition is disposed of ^{3/} in the above terms. We make no order as to costs.

[Signature]
MEMBER (J)

Dt. Feb. 25th 1989.

[Signature]
MEMBER (A).

will count towards increment. The circular further says that a railway servant absorbed in an alternative post will for the purposes^{2/}, have his past service^{3/} treated as continuous with that in the alternative post. The circular further says that the seniority of such staff shall be fixed with reference to the length of service rendered in the equivalent or corresponding grade irrespective of the rate of pay fixed.

6. Therefore the only point i.e. for ^{adju} ~~dedication~~ before us is the date from which the petitioner's seniority should be counted on his absorption as a senior clerk on getting medically unfitted in the category of ASM. In this respect it will be important to note that the petitioner came on transfer to the Northern Railway on bottom seniority and therefore in the category of ASM he was considered junior to all those who were working as ASM on 30.10.1965. The grade of the ASM at that time was Rs.130-240 it was slightly lower to the grade of the Senior Clerk which was Rs.130-300 but the decision of the respondents to equate the two grades, taken on 1.1.1973, would in our opinion also ^{imply} ~~imply~~ that the slight, higher ~~and~~ maximum^{3/} scale^{in the} of the post of Senior Clerk prior to 1.1.1973 could not place the post of ASM in a category lower than