

A³

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD.

Bishambhar Singh Applicant

Vs.

Union of India & Others Respondents

Hon. Mr. Justice U.C.Srivastva, V.C.
Hon. Mr. A.B. Gorthi, A.M.

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

This is a transfer application under section 29 of the Central Administrative Tribunal's Act, 1985.

The applicant filed the original Suit before the High Court in the year 1981 at Allahabad. At that time the applicant was 51 years old. The Suit was filed praying for quashing the reversion order dated 18-8-81 passed by the divisional Manager, ^{Jhansi,} reverting from the post of Head Clerk to the post of Senior Clerk, praying for a mandamus that the respondents may be directed not to implement the reversion order. The application was admitted by the High Court and an interim order was granted on 4-7-81 staying the operation of the reversion order with the result the applicant who retired during the pendency of this application continued to hold the said office. Now the case of the applicant ^{who} was a graduate, after the introduction of the scheme in the year 1958 in the entire Central Govt. department for formation of different clerical cadres of personnel and non-personnel, opted for personnel which was accepted. Since his services which are deemed to be in personal branch, a seniority list of the persons who have opted for personal cadre is prepared and circulated by the Divisional

Superintendent. Some per centage of the higher cadre posts of the personnel department was increased by the authorities by letter dated 17-3-1957 and the new scale was introduced from 1-4-1956. 20% of the posts were reserved for the direct recruitment of the candidates having minimum qualification of University degree and the rest^s were to be absorbed as per the seniority of the serving clerks. It was only after reaching ^{quota} 80 per cent quota the 20 per cent^s should be filled in.

The applicant being eligible for direct recruitment quota, eligibility test was conducted in the year 1958. But the applicant was not called therein. Again some posts of 20% quota were lying vacant and a test was conducted and the applicant passed the said suitability test and thereafter promoted in the cadre of Senior Clerk in the pay scale of Rs.80-200 (Revised Rs.130 -300) vide order dated 16-10-1953. Thereafter the applicant submitted various representations requesting the respondents to treat his promotions with effect from 1-4-1956 in terms of Railway Boards letter dated 17-3-57 which was accepted by the d Divisional Superintendent. A revised pay scale was also prepared and for payment of arrears ^{consent} consensus was also given by the Devisional Accounts Officer. It appears on 16-12-67 in compliance to certain orders the existing incumbents of the post of Time-Keeper and Clerks in different grades, who were working in Engineering Department prior to divisional scheme, were transferred to their original branch viz. Engineering branch. The applicant who was claiming himself to be senior and given promotion from 1-4-1956 was informed that his ~~XXX~~ seniority was under consideration in Head Quarters

and finally his case was decided and he was conveyed of his assignment as senior clerk with effect from 1-4-56, and on the basis of the said seniority he was promoted as Head Clerk on 10-10-1980 and he was shown at Sr.No.19 of the seniority list as on 1-9-1975 and after 25 years of service he was placed below one Mr. Shambhoo Sashi, who was junior to him and this was done by means of a reversion order for which no notice or opportunity was given. The respondents tried to justify the order on the ground that it was on account of mistake in the Railway Administration that the seniority of the applicant was earlier shown incorrectly. This was detected later on and this mistake was rectified in the applicant's case and that is why the reversion order of the applicant was passed. Thus it is because of the merger of the two cadres the applicant was to go down and other person was placed above him. This necessitated the reversion order. The learned Counsel for the respondents Mr. Katju, placed before us the documents including the letter dated 31-12-85 issued by Divisional Railway Manager, Jhansi, from which it appears that the seniority list was revised and the seniority of the applicant was placed at Sr. 32. It was again mentioned that the applicant was promoted as Head Clerk again vide order dated 25-3-82. When the order was already under stay there was no question of promotion of the applicant as Head Clerk as the applicant was continuing as Head Clerk before the year 1981. Also, the applicant was promoted as Head Clerk in the year 1982. Now after the retirement of the applicant the question of seniority has lost all its force. Even if the applicant's seniority would be kept above the said employee, he could not have ~~XXXX~~ got any promotion. The applicant continued to work on the post of Head Clerk. So he was entitled to all the pensionary benefits of the said post. As such the applicant is deemed to get all the benefits of the post of the Head

U

Head Clerk, on which post the applicant retired or on any higher post to which he would have been promoted during this period.

No further orders are needed on this application which is accordingly disposed of with these observations. No order as to the cost.

Member (A)

Member (A)

U

Vice-Chairman.

Dated 7th May, 1992, Allahabad.

(tgk)