

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration T.A.NO. 1292 of 1987

S.P.Sharma & Others Applicants

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.)

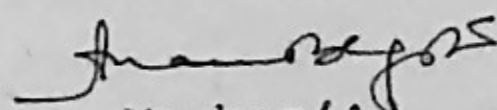
This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicants filed a Writ Petition before the High Court for quashing the seniority list dated 5.4.83 and also prayed that directions be issued to the respondents not to revert the applicants from their present post in the T.T. Organisation and also not to disturb the position of the applicants as given in the seniority list which was published on 28.10.1980. By operation of law this Writ Petition has been transferred to this Tribunal. In response to the applications called from qualified candidates for the post of Assistant Ch¹rgeman, the applicants also applied for the same, and after ~~indulging~~¹ the process of selection, they were duly selected and were appointed as Assistant Ch¹rgemen on 17th January, 1973. in the T.T. Organisation which was established by the Northern Railway in its Civil Engineering Department under the Chief Track Engineer, Northern Railway. Prior to this selection the applicants ¹ who were already in the service in Railway Department having entered the ¹ in the years 1957, 58 and 59 respectively, and were confirmed in due course. The applicants were trained for their jobs. Subsequently selection for the post of Ch¹rgeman Grade-2 in the scale of Rs. 250-380/- took place for mechanised maintenance of track and the applicants 1 & 2 were found suitable for the same and were appointed. The applicants No. 3 and 4 were f

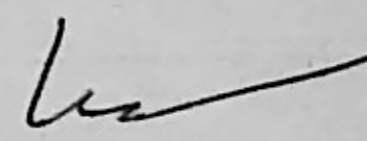
to the scale of Rs.550-750/- as Assistant Foreman in the year 1980. ~~An~~ Options were invited from those who were already working in the T.T.Organisation as to whether they would like to become members of the regular cadre Organisation, and the petitioners opted to remain in this very organisation instead of giving option for going elsewhere. The applicant Nos.1 and 2 were promoted as Assistant Foreman on 30.9.82 and 8.10.82 but abruptly an order was passed after one month by which the order dated 30.9.82 and 8.10.82 both were cancelled. The applicants states that earlier training was given to them and even thereafter training was given to them but despite that their appointment was cancelled. Against the same they made a representation. The order was cancelled in order to give preference to others who were junior to them and were promoted subsequent to them in violation of rules 304,305, 306 and 314 of the Railway Establishment Manual. Even against the specific rules seniority was given to those who were selected subsequently and in order to ~~to~~ accommodate them the appointments and promotions of the applicants were so cancelled. Once they have opted for their permanent employment in T.T.Organisation no one was promoted subsequently or was coming from the other department could have superseded them, but incidentally the same was done.

2. The respondents have resisted the claim of the ^{applicants} and have stated that the T.T.Organisation came into existence in the year 1968-69, and the post of Foreman, Assistant Foreman, Chargeman and Assistant Chargeman were declared as ex-cadre posts. These posts were to be filled in by calling applications of volunteers from other regular departments. When the applications were invited it was made clear that the post will be treated as ex-cadre posts not giving the staff selected to fill such ex-cadre posts any title for promotion in their regular cadre.

and as and when the selections were held for promotion to higher grades no weightage of the selection and promotion attained by the staff already promoted in the T.T.Organisation was given, but the seniority of such staff was prepared on the basis of their non-fortuitous/regular promotion in the parent cadre of all the staff who volunteered themselves for such posts alongwith the other staff working out of the T.T.Organisation. In the year 1981 it was decided to declare the ex-cadre organisation ⁱⁿ to a regular cadre organisation, and it was also decided that the seniority list of Chargeman grade Rs.425-700 will be framed on the basis of their relative length of service in the permanent cadre in the same grade, where as the seniority of Foreman for promotions to class II service will count from 1.7.81 i.e. the date ^{when} T.T.Organisation was declared as regular cadre organisation or from the date of their regular promotion in the relevant grade in their parent organisation which ever is earlier. Thus no higher seniority was given to those over their erst-while seniors in the parent cadre simply on their permanent absorption in T.T.Organisation, and the seniority in the feeder cadre. The applicants cannot claim seniority over those who were earlier seniors to them in various other departments from there they also volunteered to come to this particular T.T.Organisation. Regarding the respondents it has been stated that One Mohammad Shafiq was selected and directly recruited through Railway Service Commission in grade Rs.425-700/- and S/Shri S.K.Bajai, S.K.Rana and V.K.Singh were substantive holders of the grade of Rs.380-560 in the respective parent cadres, whereas the petitioners are holding the post in their parent cadre in grade Rs.260-400 which is the lowest one in class III appointments, and the grade of applicant Rs.425-700 for which they have been selected in the ex-cadre has been kept in tact but only

the seniority has been prepared on the basis of their substantive position in their regular cadre which is supported by the Railway Board's orders, and the copies of such orders have been annexed to the affidavit. Copies of the Railway Board's order dated 16.5.78 and 14.1.1980 has been placed on record which ^{are} on the subject, ^{which} has taken notice of ^{the} undue benefits and appointments against the ex-cadre post. It is the circulars which ^{have} been implemented by the respondents and that is why the seniority has been given to the respondents which ⁱⁿ resulted to the cancellation of the order on which the applicants relied. As the seniority has been maintained ^{and the} in order ⁱⁿ to question has been passed ^{under} the decision of the Railway Board referred to above, which have not been questioned, ^{and} obviously the applicants cannot claim seniority over the respondents who were senior to them in their parent cadre, and the seniority in the parent cadre having been maintained merely because the ^{applicants} respondents even if they said that they entered this organisation earlier they cannot claim seniority over the others. As such we do not find any merit in the application, it is accordingly dismissed. No order as to costs.


Member (A)


Vice-Chairman.

29th November, 1991, Alld.

(sph)