

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

T.A. No. 1787/87
(W.P. No. 2559/85)

Bhagwati Prasad ... Applicant

Vs.

Union of India & others ... Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

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

In this application the applicant has claimed
vide a writ to quash the order dated 1.2.84 and
14.2.86, the order by which direction may be issued
to the respondents in the nature of mandamus
commanding the respondent Nos. 3 & 4 to allow the
petitioner to work as Mail Guard.

From the facts as stated by the parties in which
there is some difference. The position appears to be
that the applicant was appointed as a 'Candidate Porter'
on 1.11.47 and the respondents No. 5 & 6, Sri Bijay
Bahadur Singh and Chandra Shekhar Gaur were made
permanent but also was junior to him. In the gradation
list, the petitioner's name has been shown at Sl. No. 8
and that of Bijay Bahadur Singh and Chandra Shekhar Gaur
are shown at Sl. Nos. 11 & 12 respectively. The
applicant was appointed to officiate ^{as} Class-III of
'Mail Guard' from 1963 or earlier than that. But
from 16.5.1992, he worked continuously as 'Mail Guard'
in various ~~maxx~~ sections and offices as he was found
senior and fit. As per rotation order dated 5.11.84
he was working as 'Mail Guard' in Train A-28 section,
he had been served with a S.C. Memo (Set Competition
Memo) on 14.2.86 reverting him to work as 'mailman'

with the Mail agent. The applicant was very much shocked and ~~he~~ fainted, fell ill and proceeded on medical leave.

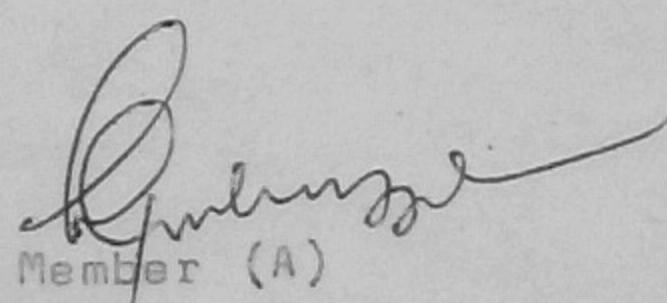
After recovery of his health, he made enquiries from the office of the respondent No. 3 & 4 and learnt that as per rotation order, he has been reverted back as 'mailman' whereas respondent No. 5 & 7 who were junior to the applicant were allowed to work as 'Mail Guards'. The rotation order dated 1.2.85 and 14.2.85 are erroneous, illegal and arbitrary in as much as respondents No. 5 & 7 who are junior to him were ~~against~~ allowed to work. As such ~~from~~ the departmental ~~proceedings~~ ^{he "Come} ~~we have come~~ ~~contrary~~ to the conclusion that ~~let~~ he should file a writ petition ^{and} ~~now~~ transferred to this Tribunal. In view of the fact, it can be observed that the promotion to the cadre of 'Mail Guard' is not made only on the basis of seniority and fitness. For promotion to the cadre of 'Mail Guard' an examination has been prescribed and is to be passed. The applicant has not passed the examination.

The rotation order ~~is~~ issued on 5.1.84 does not show the designation of the applicant. In the absence of any order on the subject it shall be presumed that the applicant was working in A-28 section ~~from~~ from his original post of Jamadar where he holds a lien. The posts of Jamadar and 'Mail Guard' are of same time scale of Rs. 210-4-250-E8-5-270. The applicant was never promoted to the cadre of 'Mail Guard' as such there is no question of reversion. Respondent No. 6 is senior to the applicant and respondent No. 5 & 7 are junior to him, but none of them have been ordered to be promoted as 'Mail Guard'.

The applicant has been all along an average worker and rotation for section is made for one year only.

The facts as indicated above shows that although the 'Mail Guards' are in the same grade as that of Jamadars, juniors were allowed to work as the applicant was not allowed. xxxxxxxx It is the experience which counts for and counts to the grade of a person is given on the basis of seniority and promotion, if there was nothing wrong in the applicants case, he could have also been allowed to work as 'Mail Guard' like his juniors. Accordingly, the respondents are directed to assign the applicant and to give duty of 'Mail Guard' also.

In case under the rotation order, the respondents have also assigns to work as 'Mail Guard', obviously, the applicant has not passed the prescribed examination and this application is deemed to have been dismissed. But in case his juniors are allowed to work as Mail Guard, the applicant may also be allowed to work notwithstanding the fact that the emoluments will not be effected. With the above observations the application is being disposed of finally. No order is to be costs.



Member (A)



Vice Chairman

Allahabad
dt. 2.7.92

/smc/