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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

O.A. No. 901/87

(8)

K.P.Chaturvedi..... Applicant

Versus

Union of India and others. Respondents.

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

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

The applicants were recruited in the railway after receiving the requisite training in the Lucknow Division, Northern Railway, Lucknow. Vide impugned order 56 posts were declared as surplus. After declaring these posts 53 posts of reservation clerks were created. The applicant from whom no option was taken and who has worked for several years as clerk and some of them waiting for their turn for promotion to the higher post were sent to work as enquiry cum reservation clerks for which they had no experience. This order was implemented in phases. First 32 persons out right were shifted and later on 10 names were withdrawn but for remaining 10 persons in the grade of 975-1540 no order was passed. While withdrawing the names of the grade 1200-2040 no principle was observed. Feeling aggrieved against the same the applicant has prayed the said order of surrender dated 7.8.87 together with the orders of junior persons shifting the applicant from the post of goods clerk to the post of enquiry reservation clerk which obviously was without any option by them to be quashed.

2. The respondents have opposed the application and have stated that because of introduction of number

Contd. 2

(9)

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of long distance trains and reserved coaches in the various other trains the work load heavily increased and that is why Divisional Railway Manager with the concurrence of the Senior Accounts Officer accorded the approval for surrender of 56 posts of goods clerks in various grades and thereafter 53 posts for reservation clerks were created. Thus the applicant's grievance that the creation of the posts was made by the Divisional Railway Manager who is not competent authority an assertion which has been challenged by the respondents and according to them the posts which have been abolished were created by only higher superior authority but not by the Divisional Personnel Manager more so it has not been said that he had done so under the authority of the competent authority. The respondents in the subsequent affidavits have also not explained this thing very clearly and have stated that the Railway Board vide letter dated 12.7.84 has given the procedure of creation and matching surrender of the posts. The General Manager, Northern Railway vide letter dated 17.3.86 reiterated the desire of surrender of surplus posts and reemployment at the places where men were required and in this connection circular was issued jointly by three Heads of department, Planning, Accounts and Establishment. Thus it cannot be said that it was done by the competent authority as was done by the three Heads of Department. It was done since the posts were surrendered surplus and creation of posts was done in various grades and junior most were transferred in the reservation and the percentage was to be maintained in this cadre and even if it is accepted that the creation of posts was done by the competent

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(12/3)

authority, the applicant had no option for the same as the post was abolished but as far as the seniority of the applicant is concerned that ought to have been maintained but the question of seniority it appears did not receive the attention of the competent authority and accordingly so far as the creation of the posts are concerned, the applicants have no claim over the same and it is the discretion of the department to create posts or to abolish the posts but while abolishing the posts and creating new posts, the seniority cannot be taken away and accordingly this application is allowed only to the extent that the respondents are directed to maintain the seniority of the applicant who shall not be placed junior to his junior and his position over all his juniors from the angle of date of entering into service, will be maintained.

3. No order as to the costs.

B. D. Banerjee
A.M.

K. C.
V.C.

Dated: Allahabad
2nd Sept., 1992

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