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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

O.A. No. 113/87

Ajai Kishore

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorathi, Adm. Member.

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

The applicant who was serving as Clerk Grade II in the pay scale of Rs 260-400 in the Personnel Branch of Northern Railway at Allahabad division also appeared in the test for the post of Senior Clerk in the grade of Rs 330-560, 13.33% of which were made available to the Graduate Clerks already serving the the lower grade. The applicant appeared in the said examination. Within 43 vacancies the applicant was placed at serial No.

43. As per rules the ~~applicants~~ <sup>Candidates</sup> were to be taken as <sup>1</sup> per the merit list, and ~~they were the applicants~~ who <sup>1</sup> were far below the applicant were taken but the <sup>division</sup> applicant was not absorbed in the Allahabad. The <sup>1</sup> applicant did not want his transfer to Lucknow division.

The D.R.M. wrote a letter dated 8.11.85 (Annexure VIII) wherein it has been stated that these persons have acquired sufficient experience in their respective branches and to loose them would be rather pinching. These 15 persons be retained on the Division on promotion as Sr. Grade Clerk against 45 vacancies of outside Graduate Quota reserved on the division upto 30.9.83 with necessary

adjustment by allotting only 30 candidates to this Division out of 45 vacancies of outside Graduate Quota and the balance of 15 be allotted to the Division where the above fifteen now retained on the Division have been posted as and when panel is available. The D.R.M. Northern Railway again wrote a letter dated 28.1.1986 addressed to C.B.O. requesting to look into the matter for the retention of the applicant and others for promotion to the grade of Rs 330-560 against 45 vacancies.

2. The respondents contend that the applicant alongwith 14 other clerks who were posted out of Allahabad Division did not move on transfer to the respective division and represented for their posting on this division against serving graduate quota vacancies accrued after 31.10.83. Accordingly their case was referred to the Headquarters. On receipt of instructions, the applicant has been spared with the ~~same~~ instructions/ to report to D.R.M. Lucknow vide notice dated 23.2.87.

3. There is no denial of the fact that the recommendations were made but later on it was not the applicant who was responsible for moving to Lucknow Allahabad but it was the respondents who were responsible for the same. The averments in the counter are not correct. The applicant thus, by virtue of his position was entitled to the grade of Rs 330-560. The respondents thus, did not allow to move him to Lucknow Division. Thus, the applicant has been deprived of what has been entitled by the act of the respondents and the applicant is entitled to the relief claimed in view of his seniority and position which he earned in the examination as restructuring

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of the cadre. Accordingly, the application is allowed and the respondents are directed to place the applicant and to post him in the grade of Rs 330-560 from the date the others were placed in the same,

~~and post him in the Allahabad Division where he can be placed.~~ His placement will be with retrospective effect, as has been indicated above. There will be no order as to costs.

*transcr*

A.M.

*W*

V.C.

*Mukundan DK.*

Allahabad Dated: 13.9.91.