

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH) ALLAHABAD.

J.A. NO.

~~1000~~ Application

~~OF 1999~~

T.S.A. NO.

~~1000~~ 1000 of 1000

OA 319/92

Date of decision: 3.12.92

..... Pyare Lal Seth & Keshwandas Petitioner
Prasael

..... SRI P.K. Kashyap Advocate for the petitioner.

Versus

..... Union of Indigents Respondents.

..... SRI A.K. Gaur Advocates for the Respondent(s)

CORAM :-

The Hon'ble Mr. Justice U.C. Srivastava, VC

The Hon'ble Mr. K. Ojha, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgment ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the judgment ? ✓
4. Whether to be circulated to all other Benches ? ✓

NAQVI/

Signature

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Misc. application No. 1532 of 1992

In
Original Application No. 319 of 1992

Conceded
13/4/93
Pyare Lal Seth and ^{Raghunandan} Raghavendra
Prasad

..... Applicants

Versus

Union of India and Others

..... Respondents

CORAM:

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

Hon. Mr. K. Qayya, Member(A)

The pleadings are complete, the case is being heard and disposed of finally. The applicants two in number have approached this Tribunal for quashing the seniority list dated 18.4.91 through which the juniors of the applicants have been declared senior in the cadre of Senior Clerk or Head Clerk in the grade of Rs.1400-2300 and also for declaring the office orders dated 14.2.92 and 19.12.90 as null and void. This order according to the applicants have been issued in order to reduce the pay of the applicants in the grade of Senior Clerk as well as Head Clerk ~~xxxxxxxxxxxx~~ the directions of seniority and regular fixation of pay which amounts to reversion in the garb of stepping up of the pay.

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2. The applicants are working as Head Clerks in the Office of the Deputy Chief Commercial Supdt. Northern Railway, Varanasi. The applicant no.1 was appointed as Junior Clerk on 1.8.73 through Railway Service Commission and was posted in the Railway Electrification, at Allahabad. The applicant no.2 was appointed as Junior clerk on 10.9.73 through the ^{Service} Railway/Commission and was posted in the Railway Electrification Allahabad. The lien of the applicants were fixed in the office of the Deputy Chief Mechanical Engineer, Cherbagh, Lucknow vide G.M., Northern Railway's letter dated 26.7.75. This lien of the applicant was changed from the office of Deputy Chief Mechanical engineer to the office of Deputy Chief Commercial Supdt, Varanasi through notification dated Jan. 1977.

3. So far as the applicant no.2 is concerned, his lien was originally fixed in the office of the Deputy Chief Controller of Stores, Alambagh, Lucknow vide letter dated 26.7.75 and was changed to Varanasi on 16.4.77. The applicant no.1 was released from Railway Electrification office to join his duty at Deputy Chief Commercial Supdt's office Varanasi vide order dated 21.6.77 and the applicant no.2 was also directed to report ~~the~~ to duty at Varanasi like him. They were promoted as

General
13/4/93

^{Head} Senior Clerks, the applicant no.1 w.e.f. 1.1.84 and the applicant no.2 was promoted w.e.f. 10.1.84 and their pay was fixed at Rs.425/- from 1.1.84 and an yearly increment at the rate of Rs.15/- per month that after coming into force the IVth Pay Commission it was fixed to Rs.1440/- from 1.1.86. It is there after the applicants seniority was fixed in the year 1978 and 1979 and according to the applicants their seniority was wrongly fixed and inas much as their juniors were placed above them who were appointed as Senior Clerks and Head Clerks after the appointment of the applicants.

4. The applicants made representations against the seniority and as a result of this change in the seniority was that the basic pay of the applicants in the cadre of Senior Clerks and Head Clerk was also reduced. Failing to get any relief from the department, the applicants ultimately have approached this Tribunal contending that the respondents have wrongly and arbitrarily reduced the pay of the applicants vide office order dated 14.2.92 and the seniority list has wrongly prepared.

5. The respondents have resisted the claim of the applicant and they have pointed out that the applicants have not come to Varanasi to the Deputy Chief Commercial Supdt's office on their own request in administrative exigency they were

transferred. As they were transferred in exigency their lien has been treated as 'transferred on request' and they have been assigned their seniority from the date of their transfer of lien in the office of Deputy Chief Commercial Supdt. Varanasi. Even if it would be said that the lien has been transferred, to the office of Chief Commercial Supdt. Varanasi, it could not be treated to be a case of transfer on request. The respondents themselves have stated in clear and categorical language that no request was made as such and they have not come to Varanasi at their own request. ^{If} They have not come to Varanasi on their own request, their lien even if is transferred, their services cannot be taken away when a fresh seniority list was prepared, they were to be given benefit of their old service as their lien of services always subsisted instead from Lucknow to Allahabad they are transferred to Varanasi. The seniority list in these circumstances were wrongly prepared and taking to be a case of voluntary transfer.

6. Accordingly, the seniority list as it is today deserves to be quashed. So far as the applicants are concerned, the respondents are directed to refix the seniority list after taking into consideration the version of the affected persons in accordance with law in the light of observations made above within a period of three

months. The applicants may also be given benefits of salary which they are entitled to have. Their salary cannot be reduced for stepping up the salary of the admitted juniors and let the restoration also be done within this period.

7. With the observations, the application stands disposed off finally. No order as to the costs. All the misc. applications ~~at hand~~ also stand disposed off with the above observations.


MEMBER (A)


VICE CHAIRMAN

Dated: 3rd December, 1992

(Uv)