

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1043 of 1993

Allahabad this the 30th day of November, 2000

Hon'ble Mr.V.K. Majotra, Member (A)
Hon'ble Mr.S.K.I. Naqvi, Member (J)

Mukesh Varma, S/o Sri G.S.P. Varma, R/o 25-A
Rest House Colony, Prayag, Allahabad.

Applicant

By Advocate Shri A.K. Sinha

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,
Allahabad.

Respondents

By Advocate Shri Prashant Mathur

O R D E R (Oral)

By Hon'ble Mr.V.K. Majotra, Member (A)

The applicant is aggrieved by Notifi-
cation dated 28.6.1993 issued by respondent no.1,
inviting options from various categories of staff
including the category of Assistant Station Master
(for short A.S.M.) for selection on the post of
Research and Development Inspector (for short R.D.I.)
grade Rs.1400-2300. According to the applicant, he
was initially appointed as A.S.M. grade Rs.1200-2040
and further promoted as A.S.M. Grade Rs.1400-2300 on

30.1.1990, and was posted at Ram Ganga Railway Station. In February, 1991, options were invited by respondent no.1 from the staff including A.S.M./^(RPS) S.M. etc. for utilisation as R.D.I. Rs.1400-2300^h for a period of 2 years extendable by one more year. The applicant opted for the same and joined his duties on 25.9.1992 (annexure A-4). The applicant has averred that whereas the Railway Karamchhari Union had been demanding inclusion of the category of A.S.M.s for promotion to R.D.I. posts, respondent no.1 on 28.6.1993 issued a Notification regarding selection for the post of R.D.I. as per revised channel of promotion circulated vide letter dated 14.5.1993. In this Notification, category of A.S.M.s was excluded from the channel of promotion for the post of R.D.I. The case of the applicant is that the previous channel of promotion in which A.S.Ms were eligible for the post of R.D.I, should be made applicable to the case of the applicant and the new channel of promotion should not be given retrospective effect at all. Under the old channel of promotion 50% of the posts of RDIs were filled from the persons working as RDAs and 50% were to be filled from the persons working as ASMs etc. According to the applicant, he had been working as R.D.I. against remaining 50% quota and was eligible for consideration for promotion to the post of R.D.I.

2. The applicant has sought directions to the respondents to revive the old channel of promotion (annexure A-2) and thereafter regularise the services of the applicant as R.D.I. (Grade Rs1400-2300) with all consequential benefits.

3. In their counter.reply, the respondents have stated that in response to Notification dated 27.2.1991 from the categories of A.S.M. etc.having 2 years service and 45 years of age as on 31.1.1991 the applicant was appointed as R.D.I. in the grade of Rs.1400-2300 ^{(RPS) 6} purely on deputation basis for a period of 2 years, extendable for a year. A clear stipulation was provided while appointing him as R.D.I. that he will retain his lien and seniority in the parent cadre and will be considered for further promotion etc. in his parent division(annexure C.A.-1) The applicant's appointment as R.D.I. did not confer any right or claim for absorption as R.D.I. and for further promotion in the cadre of R.D.I. His utilisation as R.D.I. was a temporary arrangement till he was replaced by the regular staff. The respondents have further stated that both the recognised Unions had consented to revision in the channel of promotion and in accordance with their concurrence, revised chart of promotion was issued vide letter dated 13.5.1993(annexure C.A.-4).

n.m./

4. The respondents have further stated that Ass/tt. Station Masters have already their bright avenues for promotion in their own cadre of operating department like A.S.Ms, Station Masters, Station Superintendent, Wagon Movement Inspectors, Controllers and Yard Masters, etc. Thus it was decided that A.S.Ms should be taken out of the feeding cadre of the post of R.D.I and that categories of Commercial Clerks who ~~were~~ ^{were} the feeder cadre for the post of R.D.I should continue as such.

5. We have heard learned counsel of both sides and carefully perused the material on record.

6. The learned counsel of the applicant drew our ~~atten~~ attention to the order dt. 14.07.93 in the O.A. where by the respondents were directed to maintain status quo and to allow the applicant to appear in the examination. However, it was directed that the result shall not be declared. The learned counsel of the applicant reiterating various avements made in the O.A. mentioned that since the applicant was already serving as R.D.I the revised channel of promotion in which the category of A.S.Ms was excluded from the selection of the post of R.D.I should not have been made applicable to the applicant retrospectively. He brought to our notice memo NO. 847-E/86-X (pt. IV) EIC dt. 02.05.2000 inviting application to form a panel to fill up four posts of Research and Development Asstt. (R.D.A) Gr. 3200-4900/- from the commercial clerks and Transportation staff including A.S.Ms. working in Gr. 4500-7000/- who fulfill certain conditions particularly "the transportation^{staff} in grade Rs 4500-7000 (RPS) will have to give written consent to accept the lower grade Rs. 3200-4900/-(RPS)". Learned counsel stated that the respondents keep changing eligibility conditions of feeding cadres for the post of R.D.I. Earlier vide impugned annexure-1 they had excluded A.S.Ms and vide this letter dt. 02.05.00 they have included them on the condition that such staff gives written consent to accept the lower grade. Learned counsel pointed out that this exception of reversion has been made only for the category of A.S.Ms. and not for other categories ~~among~~ amongst the commercial clerks and transportation staff.

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7. The learned counsel of the respondents has stated whereas the applicant had been taken on deputation as R.D.I on purely temporary basis in terms of notification dt. 27.02.91 for a period of two years extendable for one year, it was clearly stipulated there in that he shall retain his lien and seniority in the parent cadre and not have any right on the post of deputation. When the channel of promotion from the R.D.I was changed vide order dt. 28.06.93 (annexure A-1) normal deputation term of the applicant as R.D.I had already expired. The respondents are within their right to change the channel of promotion for various posts with or without consent of the Union. However, in the present case the consent of the Union had already been obtained and the channel of promotion for the post of R.D.I was changed excluding the cadre of A.S.Ms.

8. We find from the documents enclosed by the applicant such as annexure A-6 and annexure A-7 that the Railway Kamachari Unions were consulted in the matter of review of the channel of promotion of R.D.I. However, as per the Annexure A-8 the Divisional Secretary of Northern Railway Mens Union Bikaner Division vide his letter dt. 29.06.93 had again requested for inclusion of A.S.Ms. in the channel of promotion to the post of R.D.I. It is stated there in that the General Secretary, N.R.M.U. New Delhi, had already advised them that in their recommendation to the G.M. the ~~xxxxxx~~ cadre of A.S.Ms has not be included for promotion to the post of R.D.I. In the present case there is question of retrospective application of the change of channel for promotion to the post of R.D.I. The channel of promotion for the post

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of R.D.I. was changed as per annexure A-1 dt. 28.06.93 after the Union had rendered their consent for change in the channel of promotion for the post of R.D.I. Clearly the applicant had come on deputation to the post of R.D.I. in the year 1991 in response to notification dt. 27.02.91. He had been told that his deputation ~~xxx~~ would be for a limited period and he would not have any right for regularisation on the post of R.D.I. and would maintain his lien in the parent division only. We find that before us is a matter of policy of the government regarding suitability of different cadres for consideration for promotion to the post of R.D.I. ~~xxx~~ NO such policy can remain permanent. It can be changed by the Government from time to time having regard to various aspects and developments.

9. Taking in to consideration the applicant's terms of deputation to the post of R.D.I. in 1991 and change of channel of selection for the post of R.D.I as per letter dt. 28.06.93 after adopting due process of consultation with the related employees' Union, we are unable to find any fault with the change in the channel of selection for the post of R.D.I by the respondents. In this view of the matter, the applicant has no case for regularisation of his services on the post of R.D.I.

10. At this stage the learned counsel of the applicant on instruction from the applicant, who is present in ~~th~~ the court, stated that the applicant is prepared to accept the lower grade of Rs. 3200.4900 as per memorandum dt. 02.5.00 and to participate in the suitability test for the post of R.D.A Gr. 3200-4900/-

11. Learned counsel of the respondents stated that the respondents would be agreeable to consider the applicant on representation to be made by him in this regard

as per rules.

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12. Having regard to reasons and facts and ~~an~~ circumstances of the case the O.A. is disposed of in terms of following direction:- 'if the applicant makes a representation to the respondents in terms of memorandum dt. 02.05.00 with written consent to accept the lower grade of Rs. 3200-4900/- (RPS) the respondents would allow him to appear in the suitability test for the post of R.D.A Gr. 3200-4900/- (RPS) as per rules and relevant instructions .''

13. There will be no order as to costs .

Rat. Vaidya

Member- J.

V. Mayoh

Member- A.