

Headclerk has been rejected.

2. The facts of the case are that the applicant had^u joined Railway as Clerk Grade- II in the scale of Rs.260-400 in 'P' Branch under Assistant Personnel Officer, Mughal Sarai. He joined his post on 2.3.1977. Initially Mughal Sarai was under Danapur Division of Eastern Railway. Danapur Division was bifurcated and a separate Mughal Sarai Division was established in the Eastern Railway. When Danapur Division was bifurcated, the applicant made an application for his transfer to Danapur Division. The request of the applicant was accepted and he was transferred to Engineering Department and posted under AEN/Buxer in Danapur Division w.e.f. 17.2.78. The applicant was transferred to Danapur at his own request. However, the applicant was again transferred from Danapur to Mughal Sarai by order dated 26.2.79. The order reads as under :-

"The competent authority has passed the following orders which will have immediate effect -

Sri Girija Shanker Pandey, Clerk under AEN/BX R in Scale Rs.260-400/- is hereby transferred back to Mughalsarai in personnel Branch order DPO/MGS on his same pay grade and capacity."

3. The applicant joined his duty at Mughal Sarai on 19.3.79. It is undisputed that when the applicant joined at Danapur on 17.2.78, he was assigned bottom seniority. The applicant had joined service on 2.3.77. The ^{effect} ~~fact~~ was that when the applicant joined Danapur Division on 17.2.78, his seniority between 2.3.77 to 17.2.78 was lost. When the applicant was transferred from Danapur to Mughal Sarai, he joined there with loss of his seniority. The order under which he was transferred, does



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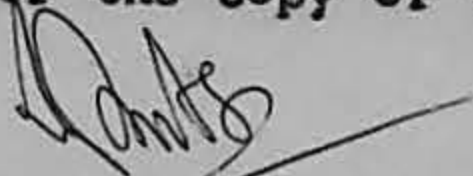
~~not say that~~ ^u the applicant ^{cl} was ~~restored to~~ ^{on} his original seniority. The applicant has placed reliance ^{on} the order dated 18.10.1982 by which his appeal dated 20.9.1981 was allowed and following order was passed and he was restored to original seniority as Clerk w.e.f. 2.3.77 and his name was put in between Sri M.C.Sukla & Sri H.R.Singh. The order is re-produced below :-


"Your above appeal has been carefully examined by the Competent Authority & it has been observed that your seniority as Clerk Grade-II in personnel Branch/ Danapur Division was assigned, with effect from 2.3.77 and you were transferred under AEN/BXR and subsequently with drawn back on administrative interest therefore, it has been decided by the competent authority to restore your Seniority as Clerk Grade-II Rs. 260-400/- (Rs) with effect from 2.3.77 in between Sri M.C.Sukla & Sri H.R.Singh and accordingly as Clerk Grade-I Rs.330-560/- (Rs) as per relative seniority. Your name will be interpolated in seniority list under circulation."

4. The correctness of this order has not been questioned by respondents in Para 10 of the Counter reply. The representation of the applicant challenging the seniority of the respondent Nos.4 to 6 has been rejected ignoring the order dated 18.10.82. After this order, the applicant was shown senior to respondent Nos. 4 to 6 through out in all the seniority list ^u and till the panel for appearing in the test of Headclerk was prepared in 1984.
5. In the circumstances, in our opinion, the impugned orders rejecting the claim of the applicant are not justified and cannot ^{be} sustained ^u. For the reasons stated above, the OA is allowed. The order dated 3.1.94 (Annexure-A-9) and order dated 14.9.94 (Annexure-A-16) are quashed. The respondents are directed to reconsider the claim of the applicant regarding seniority in the light of the order dated 18.10.82 and in accordance with rules and pass a fresh

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order within a period of three months from the date of receipt of the copy of this order. No order as to costs.


Member-A


Vice Chairman

RKM/