

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

D.A.No.297/1999

Allahabad this the 25th day of May, 2002

Hon'ble Mrs. Meera Chhibber, J.M.

Smt. Poonam Singh, wife of
Sri Chandrima Kunwar Singh,
Commercial Inspector (Rate)
North-Eastern Railway,
Gorakhpur.

..... Applicant

(By Advocate: Sri. Satish Mandhyan)

v/s.

1. Union of India through
General Manager,
North Eastern Railway,
Gorakhpur.

2. General Manager (Personnel)
North-Eastern Railway,
Gorakhpur,

3. Chief Commercial Manager
North Eastern Railway
Gorakhpur.

..... Respondents

(By Advocate: Sri.K.P. Singh)

ORDER

24/5/2002

Hon'ble Mrs. Meera Chhibber, Member (J)

The grievance of the applicant in this D.A is that even though after selection by R.R.B., Gorakhpur. She initially was appointed as Commercial Inspector vide order dated 8.6.1998 in the scale of Rs. 1600-2660/-, revised to Rs.5500-9000/-, and posted at Headquarters, Gorakhpur at page 25 of the D.A. Pursuant to which she had also joined at Headquarters, Gorakhpur. But, within a short span of 8 months, vide order dated 9.10.1999 at page 18 of the D.A, the initial order dated 8.6.1998 was cancelled for the applicant and she was posted as Commercial

of

Superintendent Gr.II by posting her at Lucknow.

2. The applicant's grievance is that she had been posted out from Gorakhpur to accommodate one Shri Manik Chand, who was at Sl.No.5, as he had close proximity with the then Railway Minister, without any justification. Moreover, she was the only woman candidate selected by the R.R.B. She was posted at Head Quarters, Gorakhpur, by the then Chief Commercial Manager by taking their oral options. She has thus submitted that this transfer is a colourable exercise of power and as such it is arbitrary and discriminatory. The same is liable to be quashed and set aside.

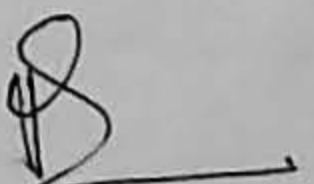
3. The respondents, on the other hand have contested this D.A by stating that even though it is correct that initially the applicant was posted as Commercial Inspector at Gorakhpur, Head quarters, but after the order dated 8.6.1998 was issued whereby two candidates were posted at Samastipur Division, 2 were posted at Izzatnagar Division and 3 were posted at Gorakhpur Head quarters. The Izzatnagar and Samastipur divisions returned back their candidates by saying that there was no vacancies of Commercial Inspectors in their divisions. Therefore, the matter had to be referred to the Chief Commercial Manager. Both the divisions had only vacancies of Commercial Superintendent Gr.II. The competent authority decided that the candidate should be given the posting as per their seniority as a result of which 3 candidate who were seniormost in the seniority on the basis of the



results declared in the training, they were posted as Commercial Inspectors while all the other 4 candidates as per their seniority were posted as Commercial Superintendent Gr.II. Since the applicant was the juniormost in the seniority list, she had to be posted as Superintendent Gr.II and since the vacancy was available at Lucknow, she was posted there. Therefore, the respondents have submitted that there is no illegality in the orders nor can the same be termed as colourable exercise of power or arbitrary. They have invited my attention to para 130 of I.R.E.M. which refers to Commercial apprentices, which talks of different categories in Commercial apprentices, viz; Commercial/Rights/Claims Inspector/Chief Booking/Goods/Parcel Clerk. All these categories are in the same pay scale and the respondents have categorically stated that on 9.7.1985 the then Chief General Manager had made a policy that as per the performance in training merit the commercial apprentices will be posted in the 5 categories as follows:

- i) Commercial Inspectors;
- ii) Rates Inspectors;
- iii) Reservation Supervisors;
- iv) Goods Supervisors; and
- v) Coaching Supervisors.

4. The respondents' counsel has clarified that the ^{was} designation ~~as~~ further ~~was~~ changed and Superintendent Gr.II is only one of the categories falling under the Commercial



Superintendent Gr.II. I have heard both the counsel and perused the pleadings. The main grievance of the applicant is that she has been ~~de~~ eased out to accommodate one of the candidates which seems to be a wrong ~~move~~ with the applicant as respondents have explained the situation under which it become necessary to post the three juniormost persons as Superintendent Gr.II as the vacancies of Commercial Inspector was not available and since the post of Superintendent Gr.II was in the same payscale. I am satisfied with the explanation given by the respondents and I am sure that no case has been made out for interference by the Tribunal. The applicant's counsel had also submitted that ~~the~~ during the pendency of this O.A. there are more vacancies of Commercial Inspector available with the respondents at Gorakhpur itself and the other two persons ~~are~~ also to be accommodated as Commercial Inspector in their respective place as the vacancy there had become available, thus a direction may be given to the respondents to accommodate the applicant also at Gorakhpur as Commercial Inspector in case the vacancy is available there. Even though there is no averments made in the pleadings but it was stated by the applicant's counsel at Bar and I think it would be justified to make such a demand that in case other two persons who were also stated to have been posted as Superintendent Gr.II by the respondents have been accommodated as Commercial Inspector, then the respondents should also consider accommodating the applicant as Commercial Inspector at Gorakhpur or any other nearby place in case the vacancies are available there.



It is so being said because as Superintendent Gr.II not only her seniority will be affected but a promotional ^{her} would ~~be~~ changed. Since ~~be~~ ^{her} avenue also been challenged and other two persons have been accommodated, the applicant should also be given the same treatment.

5. With the above observations, the O.A. is disposed of with no order as to costs.


(Meera Chhibber)
Member(J)

vtc.