

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: THIS THE 21ST DAY OF SEPTEMBER, 2005.

Original Application No. 1426 of 1999.

HON.MR.K.B.S.RAJAN, MEMBER -J
HON'BLE MR. A.K. SINGH, MEMBER-A

J.K. Jain, aged about 56 years, S/o late N.L. Jain,
R/o 353-D, Balaipur, Railway Colony, Allahabad.

.. Applicant

By Adv: Shri S.K. Om

V E R S U S

1. Union of India through the General Manager,
N. Railway, Baroda House, New Delhi.
2. Chief Personnel Officer, N. Railway Baroda
House, New Delhi.
3. General Manager, Central Organization,
Railway Electrification, Allahabad.
4. Chief Personnel Officer, Central
Organization, Railway Electrification,
Allahabad.

.....Respondents

(By Adv: Sri P. Mathur)

O R D E R

BY K.B.S. RANJAN, MEMBER-J

The applicant at the material point of time was functioning as IOW and was promoted on adhoc basis as Chief IOW in which post, he continued from 15.7.1985 to 14.7.1994. During this period, there have been certain restructuring plans, that came into operation whereby as many as 24 posts of Chief IOW were created, out of which 16 were filled up prior to 1.10.1993 and three after 1.10.1993 w.e.f. the date the incumbents took over the charge. It is

almost by this time that the post of Chief IOW which hitherto was centralized came to be decentralized and distributed amongst the division for being filled up. The grievance of the applicant is that he having served on an adhoc basis from 15.7.85 to 14.7.94 ought to have been considered for regular promotion as Chief IOW either in the restructuring scheme or otherwise by virtue of the fact that he had been working on an adhoc basis right from the year 1985.

2. On the other hand, the respondents' counsel submits that the applicant has only on an adhoc basis been functioning as Chief and that too in an ex-cadre post and as such an adhoc period cannot be counted for regular service. Further, it has been contended by him that no junior to the applicant was promoted in the scale of Rs. 2375-3750/- w.e.f. 15.7.1994.

3. The claim of the applicant is that he must have been regularized on the post of Chief IOW w.e.f. 1.3.1993 or immediately thereafter when the restructuring took place.

4. We have considered the arguments advanced by the counsel for the parties and perused the records.

5. Admittedly, the applicant was serving on an adhoc basis in an ex-cadre post as Chief IOW from 15.7.85

to 14.7.94 and now he has been promoted to the post of AEN. As a matter of fact, from the post of IOW one could be promoted either as Chief IOW or directly as AEN and as such the applicant had been directly promoted as AEN from the post of IOW. It is well settled law that no-one can have any vested right to be promoted. The following case law would be relevant to quote here:

(a) *Vinodan T. v. University of Calicut*, (2002) 4 SCC 726, at page 732 :

14. *The principle that persons merely selected for a post do not thereby acquire a right to be appointed to such post is well established by judicial precedent. Even if vacancies exist, it is open to the authority concerned to decide how many appointments should be made.*

(b) *Shankarsan Dash v. Union of India*, (1991) 3 SCC 47, at page 50 :

7. *It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies.*

(c) *Food Corpn. of India v. Bhanu Lodh*, (2005) 3 SCC 618, at page 628 :

In Shankarsan Dash v. Union of India² a Constitution Bench of this Court laid down that there is no absolute right in favour of a candidate whose name is included in the selection list to be appointed.

6. The contention of the respondents that no junior to the applicant has been promoted, has not been disputed by the applicant and as such we are of the considered view that the Article 16 of the Constitution of India has not been found violated in this case. The applicant cannot claim that just because vacancy is available, therefore, he should be promoted on regular basis as Chief IOW.

7. Under the above facts and circumstances, the O.A. is dismissed. No costs.

MEMBER-A

GIRISH/-

MEMBER-J