

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXX~~

O.A. No. 413/
~~XXXXXX~~ 1986

DATE OF DECISION 12/ 10/1989.

Shri, P. R. Adhavol Petitioner

Mr. G.A. Pandit. Advocate for the Petitioner(s)

Versus

Union of India & Others. Respondent

Mr. R.M. Vin. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G. S. Sharma. .. Judicial Member.

The Hon'ble Mr. M. M. Singh .. Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

Shri. P. R. Adhiyol
Commercial Inspector,
Western Railway,
Valsad.

... Applicant.

V/s

1. Union of India, through
General Manager,
Western Railway,
H. Q. Churchgate,
Bombay.
2. Divisional Railway Manager(Estt)
Western Railway,
Bombay Central.

... Opponents.

CORAM : HON'BLE MR. G. S. SHARMA ... JUDICIAL MEMBER.

HON'BLE MR. M. M. SINGH ... ADMINISTRATIVE MEMBER

: O. A. 413/86 :

Dt. 12/10/1989.

: J U D G M E N T :

Per : Hon'ble Mr. M. M. Singh ... Administrative Member.

The applicant working as Commercial Inspector, Western Railway, Valsad (scale Rs. 550-750) has filed this application under Section 19 of the Administrative Tribunals Act, seeking directions that he should be placed in the seniority list of Commercial Inspectors from 24.3.82, the date on which he cleared the selection, that benefit of restructuring and appointment to the scale of Rs. 700-900 from 1.1.1984 by placing him in the seniority list on the basis of his continuous officiation from 12.11.79 as Commercial Inspector be given to him; and that difference of salary between the post of ~~Senior~~ Commercial Inspector,

... 3 ...

scale Rs. 700-900, since 1.1.84 in which he worked and scale Rs. 550-750 paid to him be given to him.

2. The application was filed on 17.11.1986, The Central Administrative Tribunal (Procedure) Rules, 1985 which came into force on the 2nd September, 1985 had, in rule 4, prescribed Form I for applications presented to the Tribunal. The application is not in the prescribed even form. It omits specific mention of the order and its date which is sought to be questioned. However, the application contains an account of the applicant's service career mentioning entitlements alleged to be arising from time to time which came to be denied to him.

3. According to such account, the applicant was empanelled for the post of Chief Goods Clerk, Grade.III, by order dt. 24.3.82. He was working as Commercial Inspector from 16.1.1979, and promoted to officiate as Commercial Inspector (scale Rs. 455-700) from 12.11.79, which is a selection post. He was promoted again to officiate as Senior Commercial Inspector (scale Rs. 550-750) with effect from 6.3.1981. As, according to the applicant, the channel of promotion for Goods Clerk and Commercial Inspector was common when he successfully appeared in the selection for the post of Chief Goods Clerk, Grade.III, he was entitled to be regularised in the selection post of Senior Commercial Inspector to which post he was promoted to officiate with effect from 12.11.1979 and was given further rise to the scale Rs. 550-750 from 1.12.1981 and benefit of upgradation to the scale to Rs. 700-900 with effect from

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1.1.1984. However, the channel of promotion came to be revised vide letter No. EC 834/4/13 dt. 27.4.83 of the Head Quarter Office, Churchgate, Bombay which order was to take effect from 4.4.83. According to the applicant, even this order of 27.4.83 implies that before 4.4.83, the earlier channel of promotion, namely common channel for both Goods Clerks and Commercial Inspectors, operated. As options were given to ACMIs/CTs who had put in a service of over three years on 31.3.79 as adhoc CTs and in higher grades like ACMIs (short breaks of upto 3 months to be ignored) and those borne on the panels of CTs in 1974 and 1976, their options were to be forwarded by 30.5.1983 so as to reach SPO(T), Churchgate latest by 10.6.83. Failure to excercise option was to be taken as consent to remain in the present post and therefore progress according to the channel of promotion notified. According to the applicant as he was already working as Senior Commercial Inspector at that juncture, he was not required to send any option and his lien in the goods branch had came to an end by virtue of his continuously working as Commercial Inspector since 1979. With this understanding, he made several representations for being regularised as Commercial Inspector and for empanelment in the scale of Rs. 700-900. However, his representations elicited no reply despite recommendation made by his superior officers in this regard and, as a consequence, even his juniors got the scale of Rs. 700-900.

4. Respondents have disputed the contention and the claims of the applicant. According to the respondents, the applicant had chosen to appear in the selection for the post of Chief Goods Clerk (scale Rs. 700-900) and

and therefore estopped from claiming his lien in any branch other than the goods branch. The respondents have further argued that the application suffers from delay as the eligibility list for the beneficiaries of restructuring/upgradation in the scale of Rs. 700-900 was notified vide letter dt. 24.7.84 and that the promotions given to the applicant as Commercial Inspector (scale Rs. 455-700) and in the scale Rs. 550-750 were purely on adhoc basis and therefore the applicant's lien remained in the goods branch in ~~where~~ ^{which} he successfully appeared for selection for the post of CGC conducted on 12.7.85. The applicant's name appeared at serial number 2 of the list of successful candidates issued ~~vide~~ letter dt. 20.9.85, and the applicant was reverted to the post of CGC vide letter dt. 27. 10.1986. The applicant was, considering his divisionwise seniority, ~~too~~ junior to get benefit of restructuring/upgradation in the scale of Rs. 700-900 notified by letter dt. 24.7.84.

5. At the final hearing, the learned counsel for the applicant restricted the reliefs only to direction to the respondents to pay the difference between the scale of Rs. 700-900 to which the applicant claimed to be entitled to and the scale Rs. 550-750 actually paid to him from 1.1.84 ~~and therefore~~ ^{through} the applicant actually discharged the duties of Commercial Inspector ^{till} ~~with~~ his reversion to the post of CGC. The learned counsel for the respondents argued that the applicant ^{should} make a representation to the authorities in that regard for their decision. However, the learned counsel for the applicant pressed for adjudication.

6. A look~~s~~ at the D.R.M. Office, Bombay Central, order No E/C 132 dt. 8.8.1980, shows that the applicant's

name figured at serial No. 17 in it, and from the scale of Rs. 425-640 as Senior Goods Clerk, he was promoted to the scale of Rs. 455-700 on adhoc basis and posted as CMI. Similarly, under Division Officer, Bombay Central order No. E/C/839 13 dt. 5/6-3-1981, the applicant, who was in the scale of Rs. 455-700 on adhoc basis was promoted to officiate in the scale Rs. 550-750 and posted CMI/BCT at PDGR purely on the adhoc basis against the post reserved for S.C. community.

7. It is an accepted and undisputable principle that an employee's right remains in his own cadre. His deputation to any other cadre does not give rise to substantive rights in the cadre of deputation. Just because the applicant served on a deputation post on adhoc basis, he does not acquire any substantive rights in the cadre to which he was deputed. In that view of the matter and also the fact that he was not senior enough for substantive scale Rs. 700-900 from 1.1.84, ^{the applicant} has no legal right to the scale Rs. 700-900 with effect from 1.1.84 on substantive basis. However, his rights to the pay scale of Rs. 700-900 of the post of Commercial Inspector for the period he was continued on ad hoc basis in that deputation post ^{with his reversion} to his goods cadre and posting as CGC cannot be denied to him. In view of the above, the application is partly allowed with no order as to costs.

8. The respondents are directed to pay to the applicant within three months of this order the difference between the pay scale of Rs. 700-900 of the post of CMI with effect from 1.1.1984, in which post the applicant was working till the date of ^{his} repatriation to the goods cadre.

M. M. Singh
(M. M. Singh)
Administrative Member.

G. S. Sharma
(G. S. Sharma)
Judicial Member.