

In The Central Administrative Tribunal
Calcutta Bench

OA 267 of 1996

Present : Hon'ble Mr. U. Purkayastha, Judicial Member
Hon'ble Mr. S.K. Ghoshal, Administrative Member

Ram Rajendra Jha, S/o Sri Ramrup Jha,
aged about 38 years, Driver Gr.III,
working under DSTE(MW-W), S.E. Railway,
Garden Reach, Calcutta, residing at
Rly. Quarts No.105/8, Unit 'D', Garden
Reach, Calcutta-43.

..... Applicant

- Versus -

- 1) Union of India, service through the General
Manager, S.E. Rly., GRC, Calcutta-43.
- 2) General Manager, S.E.Rly., GRC, Calcutta-43.
- 3) Chief Personnel Officer, GRC, Calcutta-43.
- 4) Chief Signal & Telecom Engineer, S.E. Rly.,
GRC, Calcutta-43.
- 5) Chief Signal & Telecom Engineer(C), S.E.Rly.,
GRC, Calcutta-43.
- 6) Sri S.K. Choubey, Driver, CSTE's Office, S.E.
Rly., GRC, Calcutta-43. Respondents
- 7) Sri Sant Ram Yadav, Driver, CSTE's Office,
S.E. Rly., GRC, Calcutta-43.

...Pvt. Respondents

For the Applicant : Mr. B.C. Sinha, Counsel
Mr. P.K. Ghosh, Counsel

For the Respondents: Mr. S. Choudhury, Counsel

Heard on : 27-11-2000

Date of Order : 27-11-2000

ORDER

S.K. GHOSHAL, AM

The applicant is aggrieved by the promotion given to his
alleged juniors one Shri S.K. Choubey and one Shri Sant Ram Yadav who
have been absorbed in the Open Line Organisation and thus have been

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holding permanent posts in the Open Line. According to the applicant, since he was originally recruited in the Open Line Organisation, he has a right not only to be reverted to the Open Line Organisation; but also to be considered senior to those who were juniors at the time when he was working in the Open Line Organisation. The relevant facts of the case which have not been disputed can be summarised as below :

The applicant had joined the Open Line Organisation and had worked there for a year. He was released under the order dated 30-9-1983 and transferred to work in the Construction Organisation in the same capacity, namely, that of a cleaner. In the Construction Organisation the applicant was subsequently promoted as a casual Jeep Driver vide order dated 4.11.93 w.e.f. 30-9-1983. Thereafter, he was confirmed against the 60% PCR posts in the Construction Organisation after having been empanelled as a driver in the Construction Organisation under order dated 6.1.1993. He is confirmed in the PCR Cadre of Group 'D' as would be evident from the aforesaid order dated 6.1.1993. The applicant has contended that he had repeatedly requested the respondents to allow him to go back to the Open Line Organisation but his representations have not been duly considered.

The applicant has sought for the implementation of the order issued by the Office of the C.F.O./GRC, dated 17.3.89 (seen at Annexure-A/7 to the O.A.) and for absorption of the applicant in the Open Line Organisation and more importantly for fixation his seniority ^{here} over the juniors for the reason that he had originally been appointed in the Open Line Organisation.

2. The respondents have opposed the reliefs sought by the applicant. They have pointed out that the applicant had duly exercised his option for absorption against the PCR posts. They have relied on the application made by the applicant (seen at Annexure-R/2) and we notice that in the preamble to that application the applicant has specifically stated as follows :

"Knowing fully well and think it will be beneficial for me, I hereby opt myself to absorbme against PCR post which is lying vacant under your kind control".

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that

We observe further in another part of the same application, the applicant has also declared that he was in the Construction Organisation and that he was eligible for regularisation there w.e.f. 1.4.1984 in terms of the regularisation Scheme. The respondents have further argued that based on the option duly exercised by the applicant as mentioned above he was confirmed against the PCR post and therefore, his lien in the Open Line Organisation where he was originally recruited stood abolished simultaneously.

3. It is well established that confirmation in the service can be done only once in the career of a govt. servant. Though ordinarily confirmation is thus made only once in the service of an official in the cadre of original entry, based on the option exercised if the confirmation is effected against a substantive post in another organisation after long years of service in that line, the effect of that confirmation will automatically entail liquidation of the benefits like seniority and eligibility for confirmation in the original grade and organisation. The lien which is maintained for such a government servant is regulated based on the cadre/service in which he ^{is} eventually confirmed.

4. In the present case it is not disputed that the applicant had worked for long in the Construction Organisation and that it was his option to get himself absorbed against a PCR post in that organisation. When he was granted confirmation in such a post, his lien can only be maintained there. In this context the instructions ^{is} dated 17.3.1989 (seen at Annexure-A/7) on which the applicant has relied will have to be referred to. We notice that these instructions deal with the ^{arising} problem for the reason that the Construction Units draw personnels from various lines including personnels having lien in the Open Line Cadre. However, the same instructions have emphasised the fact that personnels who were confirmed against the Permanent Construction Reserve Posts created in the Construction Organisation include staff who had lien in Open Line, but had opted specifically for severing their lien in the Open Line to enable them to be confirmed against the Construction


Reserve Posts. The seniority of such personnels integrated in the Construction Organisation has been dealt with under paragraph (A)(ii) in the same instructions. The relevant para reads as follows :


"The seniority of the personnels confirmed against the Construction Reserve Posts, irrespective of the Construction Organisation in which they were confirmed, will be reckoned on the length of non-fortuitious service in the grade of the Construction Reserve Posts in which they have been confirmed".

Rest of the instructions is not relevant for ^{to our} ~~this~~ purpose.

5. It is evident from the discussion of the relevant instructions issued in this behalf as well as the general principle regulating the maintenance of lien in the event of confirmation in Construction Organisation, the case of the applicant for treating ⁴⁹ this lien as intact even in the wake of confirmation against the PCR posts can hardly be considered as tenable. We are of the considered view that in the circumstances that we have discussed above, the lien of the applicant cannot be held to have been retained in the Open Line Organisation where he had originally joined. To the contrary, his lien even if he had one in the Open Line Organisation, stood automatically abolished when he was confirmed based on his own option, exercised by him, against the Permanent Construction Reserve Posts.

6. For the reasons stated by us above, we do not find any merit in the present application. We, therefore, dismiss the same. No costs.


(S.K. Ghoshal)
Member (A)


(D. Purkayastha)
Member (J)