

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,  
J\_O\_D\_H\_P\_U\_R.

Date of Order : 21.7.2000.

O.A. No. 184/1995

Uday Raj S/O Shri Ram Karan, aged 45 years, Official address:  
Diesel Assistant, Staff No 2655, Loco Shed, Northern Railway,  
Jodhpur. Residential Address : Q. No.L-27B Loco Colony, Jodhpur.

... Applicant

VS

1. The Union of India through : The General Manager,  
Baroda House, Northern Railway, New Delhi.
2. The Divisional Rail Manager, Northern Railway,  
Jodhpur.
3. The Divisional Personnel Officer, Northern Railway,  
Jodhpur.
4. Tahir Hussain S/O Shri Mohammad Hussain, Staff  
No.2316
5. Purushotam Singh S/O Shri Guru Dev Singh, Staff  
No. 2187.
6. Girdhari S/O Shri Bhagu Mal Staff No.2056.
7. Narpat Singh S/O Shri Heera Lal, Staff No.1923  
All working under Loco foreman, Loco Running Shed,  
Jodhpur.
8. All through the Divisional Personnel Officer,  
Northern Railway, Jodhpur. (Raj)

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. S.S. Vyas, Counsel for the Respondents No. 1 to 3

Mr. S.K. Malik, Counsel for the Respondents No. 4 to 7

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

Contd....2

*Urpal Singh*

O R D E R

( PER HON'BLE MR. GOPAL SINGH )

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Uday Raj has prayed for setting aside the impugned orders dated 11.8.1994, 21.9.1994, 21.9.1994 and 17.11.1994 placed at Annexure A/1, A/2, A/3 and A/4 respectively and also for a direction to the respondents that the seniority of the applicant be fixed over ~~and~~ above respondent No.4 to 7.

2. Applicant's case is that he was initially appointed as Cleaner with effect from 22.10.1976, and was promoted on ad hoc basis as fireman 'A' w.e.f. 12.2.1987. It is the contention of the applicant that respondents No. 4 to 7 should not have been granted seniority over the applicant in terms of judgment of Hon'ble the Supreme Court in Appeal No.4681-82, 1992 Union of India Vs R. Raddiappa. Feeling aggrieved, the applicant has filed this application.



3. In the counter, the respondents have drawn our attention to letter dated 31.10.1995 of Divisional Railway Manager, Jodhpur, wherein clarification from Headquarter office regarding fixation of seniority of persons removed/dismissed was to be done. It is the contention of the respondents that they have fixed the seniority of respondents No.4 to 7 in terms of the clarification given by Headquarters office.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. Due to a general strike in Railways, some of the employees were dismissed during the year 1980.

Gopal Singh

Contd...3

Respondents No.4 to 7 were amongst them. Their cases had gone to Hon'ble the Supreme Court in Appeal No.4681-82/1992 UOI V. R. Raddiappa decided on 05.8.1993, wherein Hon'ble the Supreme Court observed as under :

- \* (i) Employees who were dismissed under Rule 14(2) for having participated in the Loco staff strike of 1981 shall be restored to their respective post within a period of three months from today.
- (ii) (a) Since more than three years have elapsed from the date the orders were found to be bad on merits by one of the tribunal it is just and fair to direct the appellant to pay the employees compensation equivalent to three years salary inclusive of dearness allowance calculated on the scale of pay prevalent in the year of judgment was delivered, that is, in 1990.
- (b) This benefit shall be available even to those employees who have retired from service. In those cases where the employees are dead the compensation shall be paid to their dependents. The compensation shall be calculated on the scale prevalent three years immediately before the date of retirement or death.
- (iii) Although the employees shall not be entitled to any promotional benefit but they shall be given notional continuity from the date of termination till the date of restoration for purposes of calculation of pensionary benefits. This benefit shall be available to retired employees as well as to those who are dealt by calculating the period till date of retirement or death."

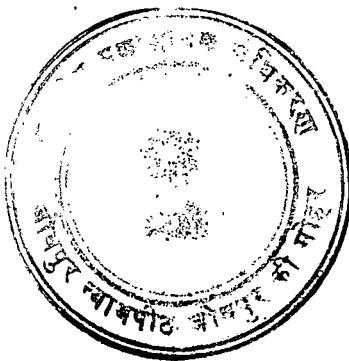
6. In terms of the above judgment, the persons who had been dismissed were to be restored to their respective posts within a period of three months and the period from the date of their dismissal to re-instatement would only count as continuity in service for pensionary benefits. Further clarification given by the Northern Railway Headquarter office reads as under :

\* It is clarified that on the issue of assignment of seniority to FM/B grade 260-350 (RS), now FN grade Rs.950-1500 (RPS), due to the merger of the grades w.e.f. 1.1.86, so far as the cases of

*Copy of*

Contd...4

(18)



the railway employees removed/dismissed from the service from 1.4.80 onwards under Rules-1968, on account of trade union activities are concerned, their length of service in the ~~the~~ grade in which they were working at the time of removed/dismissed is to be taken into account and the intervening period between their removal/dismissal to their reinstatement excluded. Thereby the service put in by them in the relevant grade ~~minus~~ the period they were out of service on account of removal/dismissal, has to be taken into account for reckoning and interpolating their names in the seniority list."

7. Thus, the employees who had been dismissed and were reinstated the period of their termination would be excluded from the length of service rendered by them for the purpose of seniority.

8. In the instant case, the applicant was appointed on ad hoc basis as Fireman 'A' w.e.f. 12.2.1987, and his services were regularised w.e.f. 8.8.1990, whereas respondent No.4, 5, 6 & 7 were appointed as such on 26.2.1968, 22.5.1973, 07.8.1978 and 01.4.1979. Thus, ~~if the period from termination to reinstatement of these respondents is reduced from the length of their service they would continue to be senior to the applicant.~~ We thus, do not find any merit in this application and the same deserves to be dismissed.

9. The Original Application is accordingly dismissed with no order as to costs.

Gopal Singh  
( GOPAL SINGH )  
Ad m. Member

A.K. Misra  
( A.K. MISRA )  
Judly. Member

\*J\*

Rec Copy

*[Signature]*

S. I. C. Malik

Adv

for Region D 4 to 7

28/7/2000.

Rec Copy for SS WAP

*[Signature]*

28/7/2000

P/Copy  
On 28/7/2000

Part II and III destroyed  
in my presence on 28/7/2000  
under the supervision of  
Section Officer as per  
order dated 10/10/2000

*[Signature]*  
Section Officer (Record)