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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

* * *

Date of Decision: 11.12.96

OA 386/96

Chander Pal, Office Superintendent Grade-II in the Operating Branch, DRM Office, Northern Railway, Jodhpur.

... Applicant

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.
3. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
4. Shri Kamal Kapoor, Office Supdt. in the Operating Branch, DRM Office, Northern Railway, Jodhpur.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.S.C.VAISH,ADMINISTRATIVE MEMBER

For the Applicant

... Mr.S.K.Malik

For Respondents No.1 to 3

... Mr.R.K.Soni

For Respondent No.4

... Mr.N.K.Khandelwal

ORDER

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Chander Pal, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs :-

"i) That by an appropriate writ, order or direction, the impugned order Ann.A/1 dated 2.12.96 and impugned seniority list dt.23.10.96/ 8.11.96 (Ann.A/2) be declared illegal and be quashed and set aside and respondents may be directed to issue fresh seniority list in accordance with the directions issued by the Hon'ble Supreme Court in R.K.Sabharwal and Akhil Bhartiya Shoshit Karamchari Sangh v. Union of India & Ors. case.

ii) That by an appropriate writ, order or direction, respondent may be directed to declare the applicant senior to all the person shown in the seniority list grade Rs.1600-2660 and be placed a Sl.No.1 of the said seniority.

iii) That by an appropriate writ, order or direction, respondent may be directed to consider the case of applicant for promotion in the grade of Rs.2000-3200 with effect from 1.1.96 for the vacancy caused due to retirement of Shri Dulare Lal with effect from 31st December, 1995 with all consequential benefits as if the same were never denied to him.

Ckrishna

iv) That by any appropriate writ, order or direction any other relief which is found just and proper in the facts and circumstances of the case may be passed in favour of the applicant by the Hon'ble Tribunal."

2. We have heard Mr.S.K.Malik, counsel for the applicant, Mr.R.K.Soni, counsel for respondents No.1 to 3 and Mr.N.K.Khandelwal, counsel for respondent No.4, and have gone through the records of the case.

3. The facts giving rise to this application may be stated as follows. The applicant was initially appointed as Clerk w.e.f. 6.10.79. He was promoted as Senior Clerk in the grade Rs.1200-2000 w.e.f. 25.6.85. He earned his promotion as Head Clerk in the grade Rs.1400-2300 w.e.f. 4.12.87 against a roster point meant for Scheduled Caste. Under the restructuring scheme through the modified selection the applicant was promoted as Office Superintendent Grade-II scale Rs.1600-2660 w.e.f. 1.3.93 vide Ann.A-3. Shri Kamal Kapoor, respondent No.4, was promoted as Office Superintendent Grade-II scale Rs.1600-2660 w.e.f. 19.7.94 vide Ann.A-4. The contention of the learned counsel for the applicant is that Shri Kamal Kapoor, respondent No.4, is not senior to the applicant. However, Shri Kamal Kapoor has filed an Original Application No.534/95 claiming therein that he is senior to the applicant. However, respondent No.3 issued the impugned seniority list dated 23.10.96/8.11.96, in which the applicant has been shown juniormost in the grade Rs.1600-2660 and even persons who were promoted in the grade Rs.1600-2660 w.e.f. 2.5.96 have been shown senior to the applicant. Aggrieved by the lowering of his seniority position by placing persons, allegedly junior to him, above him, in the impugned seniority list, the applicant made a representation vide Ann.A-6 dated 18.11.96 to the Divisional Railway Manager, Senior Divisional Operations Manager and the Divisional Personnel Officer, Northern Railway, Jodhpur, and the same is pending consideration. The applicant has challenged the impugned order, at Ann.A-1, dated 2.12.96, by which Shri Kamal Kapoor, respondent No.4, has been promoted as Office Superintendent Grade-I scale Rs.2000-3200 on a provisional basis. He has also challenged the correctness of the provisional seniority list issued vide Ann.A-2 dated 23.10.96/8.11.96. The order of promotion and the seniority list, both are provisional. The learned counsel for the applicant has drawn our attention to a decision of Hon'ble the Supreme Court, reported in JT 1996 (8) SC 274, Akhil Bhartiya Soshit Karamchhari Sangh, through its Secretary & Another v. Union of India through its Secretary, Ministry of Railway & Ors., and has stated before us that his representation, at Ann.A-6, referred to above, should be decided in the light of this case as well as in the light of the decisions rendered by Hon'ble the Supreme Court in the cases of R.K.Sabharwal and others v. State

7

- 3 -

of Punjab, reported in JT 1995 (2) SC 351 = 1995 (2) SCC 745, Ajit Singh Januja v. State of Punjab, and others, reported in JT 1996 (2) SC 727 and Union of India and others v. Virpal Singh Chauhan and others, reported in (1995) 6 SCC 684.

4. In the circumstances, we dispose of this OA, at the stage of admission, with a direction to the respondents to examine the representation of the applicant, at Ann.A-6, dated 18.11.96 keeping in view the decisions of the Hon'ble Apex Court, referred to above, and pass a detailed order meeting all the points raised therein within a period of two months from the date of receipt of a copy of this order. If the decision of the respondents leads to a revision of seniority and promotion in favour of the applicant, it will be extended for him. On the other hand, if the applicant is aggrieved by the decision of the respondents, he will have the liberty to move this Tribunal again. No order as to costs.

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(S.C.VAISH)
ADMINISTRATIVE MEMBER

C.Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN

VK

Copy of order
 Sent to R.K. Sani Adv
 On Regd AD vide
 No 260
 dt 23/12/96
 all 23/12/96

OA 386/96, OA 318/95

Recd copy of Indym
 11/12/96
R-4

Rec
[Signature]
 Ash
 12/12/96

Lib.

Part II and III destroyed
 in my presence on 26/2/03
 under the supervision of
 section officer () as per
 order dated 19/3/2002

[Signature]
 Section officer (Record)