

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH: JODHPUR

Date of order : 28/10/99

O.A. No. 45/1996

1. M.K. Jain son of Shri R.K. Jain aged about 31 years resident of 30, Patrakar Colony, New Power House, Jodhpur, at present employed on the post of Dept Store Keeper II, C/o. A.C.O.S. (Diesel), Bhagat Ki Kothi, Jodhpur.
2. Bhag Singh son of Shri Prem Kumar aged about 35 years, resident of C/o. A.C.O.S., Bikaner, at present employed on the post of DSK II in C/o. the office of A.C.O.S., Bikaner, Northern Railway.

... Applicants.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Dy. Controller of Stores, Northern Railway, Jodhpur.
3. Shri Om Singh, DSK.II, C/o. A.C.O.S., Lalgah, Bikaner, Northern Railway.
4. Shri Purka Ram, DSK II, C/o. A.C.O.S, Lalgah, Bikaner.

... Respondents.

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

Mr. R.K. Soni, Counsel for the respondents Nos. 1 and 2.

None is present for the respondents No. 3 and 4.

CORAM:

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

Hon'ble Mr. Gopal Singh, Administrative Member.

(ORDER)

(Per Hon'ble Mr. Gopal Singh)

Gopal Singh



Applicants, M.K. Jain and Bhag Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned order dated 28.11.95 (Annexure A/1) and for a direction to the respondents to grant the benefit of restructuring/upgrading to the applicants on the post of DSK II with effect from 1.3.93 according to their seniority position as per the Scheme dated 27.1.93, with all consequential benefits.

2. Applicants' case is that they were initially appointed on the post of DSK III on 12.4.88 and 17.12.86 respectively. That they were further promoted to the post of DSK II vide order dated 21.8.95. That both the applicants have passed the requisite selection and then only they were granted promotion to DSK II. That a restructuring scheme of certain Group 'C' and 'D' cadres was introduced vide Railway Board's circular dated 27.1.93. It is the contention of the applicants that some of their juniors have been given the benefit of restructuring scheme whereas their claims have been ignored. It may be pointed out that the juniors who have been given the benefit belong to reserved category. It is the contention of the applicants that under restructuring of cadres, no additional post was created and there was no question of applying reservation roster. Feeling aggrieved, the applicants have approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply.

4. We have heard the learned counsel for the parties and perused the records of the case.

5. The question of reservation in promotion under restructuring scheme came up before Hon'ble the Supreme Court in Civil Appeal No. 3622 of 1995, Union of India vs. V.K. Sirothia, decided on 19.11.1998 and it was held as under :-

"The finding of the Tribunal that "the so-called promotion as a result of redistribution of posts is not promotion attracting reservation" on the facts of the case, appears to be based on good reasonings. On facts, it is seen that it is a case of upgradation on account of restructuring of the cadres, therefore, the question of reservation will not arise. We do not find any ground to

Co-pals



interfere with the order of the Tribunal."

In view of the above judgement of Hon'ble the Supreme Court, the reservation roster would not apply to promotion under restructuring scheme and the benefit of restructuring would be available to the employees as per their seniority irrespective of the fact whether they belong to reserved category or not.

6. In the light of the above discussion, we find that the application has merit and deserves to be allowed.

7. Application is accordingly allowed. The impugned order dated 28.11.95 (Annexure A/1) is set aside. The respondents are directed to consider the case of the applicants for grant of the benefit under the restructuring scheme on the post of S.K. II with effect from 1.3.1993 according to their seniority position.

8. Parties are left to bear their own costs.



Gopal Singh
(GOPAL SINGH)
Adm. Member

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

Cvr.