

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

15
Date of order : 27.3.2000

O.A.NO. 385/97

1. Gauri Shanker S/o Shri Khyali Ram Caste Swami, Resident of Railway Quarter No. 61 D Railway Colony, Near Club Hanumangarh Jn. District Hanumangarh, working as Booking Clerk.
2. Waheed Ali S/o Shri Raukhan, Caste Mohammadan, Resident of 31D, Railway Colony, Near Loco District Hanumangarh, Working as Booking Clerk.
3. Jevraj Singh S/o Shri Lal Singh, Caste Rajput, Resident of present Return Checker, Bikaner, Working as Booking Clerk.
4. Om Prakash S/o Shri Dana Ram By caste Meena, Resident of Railway Colony, Tibbi District Hanumangarh, Working as Booking Clerk.
5. Murari Lal S/o Shri Dala Ram By Caste Balmiki, Resident of Railway Colony, Suratgarh, District Sriganganagar. Working as Booking Clerk.

.....Applicants.

versus

1. Union of India through General Manager, Northern Railway, Headquarters, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner.
3. Senior Divisional Personnel Officer, Northern Railway, Bikaner.

.....Respondents.

CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Mr.Y.K.Sharma, Counsel for the applicants.

Mr.S.S.Vyas, Counsel for the respondents.

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PER HON'BLE MR.JUSTICE B.S.RAIKOTE :

The Applicants have filed the present Application for

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quashing the order Annex.A/1 dated 5.12.97 and with a further direction to the respondents to treat the applicants as regular promotees on the posts of Coaching Clerks i.e.Booking Clerks and accordingly their seniority has to be refixed on the post of Booking Clerks. They have further prayed that there should be a direction not to conduct any selection on the basis of the orders Annex.A/1 dated 5.12.97 till the final decision of this case.

2. These prayers are opposed by the respondents on more than one points. At the out-set we may look into the order of this Tribunal already passed in the cases of applicants No. 1 to 3 in O.A.No.773/89 dated 4.8.93. In that application also, the applicants were the ad hoc promotees to the post of Booking Clerks and almost similar relief was prayed for. It is not disputed that for promotion to the post of Booking Clerk certain departmental examinations are required to be passed. Applicants No. 1 to 3 had not qualified the test for the posts of Booking Clerks for their regular promotion, as has been mentioned in the order passed in the earlier O.A. It was in those circumstances, this Tribunal issued the following direction :-

"We are of the opinion that since the applicants have been working on the post of Booking Clerks since 1985 and they have not been reverted so far as such two more chances shall be given to them to appear and qualify in the test for the post of Booking Clerk. However, they will be liable to be reverted in case it becomes necessary to appoint duly selected candidates. This disposes of the O.A. No order as to costs."

3. The learned counsel for the applicants relying on this observation of the Tribunal contended that after the said order, the applicant has been given only one chance in the year 1997 to appear in the departmental examination in which he has been declared fail and applicants would be entitled to one more chance in terms of the said order. Hence, their reversion vide order

Annex.A/1 is illegal. On the other hand, the learned counsel for the respondents submitted that as per the order of this Tribunal, the applicants were liable to be reverted if, It would become necessary, if the regular selection takes place meanwhile and giving two more chances was within such process of selection. He further submitted that when the selection has taken place and regularly selected candidates have joined to their post it has now become necessary for the department to revert the applicants to their original posts by issuing reversion order Annex.A/1. Since the applicants were not eligible for the promotional post, they cannot pray before this Tribunal that they shall be declared as regular promotees instead of ad hoc promotees to the post of Booking Clerks.

4. We find substance in the argument of the respondents. In fact, passing of certain departmental examination is pre-requisite condition for promotion to the post of Booking Clerk is not disputed. This fact is also admitted that the applicants could not qualify in the departmental examination, for promotion. From this it follows that whenever regularly appointed persons to the cadre in question are available they are liable to be reverted. They are only ^{ad hoc} Booking Clerks. From the reading of this Tribunal's order also, it is clear that out of sympathetic consideration only the applicants were given two more chances to qualify in the test about seven years back. It is not in dispute that the selection has taken place and the regular candidates have come and joined to the posts of Booking Clerk and now it has become necessary for the department to revert the applicant to their original postings. The ad hoc appointees like applicants have no right to continue on the post unless they passed the required departmental test and that have not done so. Hence, we

do not find any infirmity in the reversion order dated 5.12.97 (Annex.A/1). For these reasons, we have no option but to order as under :-

The Original Application is dismissed. Parties are left to bear their own costs. Interim order stands vacated.

Gopal Singh

(Gopal Singh)

Adm. Member

BSR

(B.S.Raikote)

Vice Chairman

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