

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 12.01.2001.

O.A. No. 57/1997

Sugan Singh S/O Shri Jethmal, aged about 41 years,
Chief Inspector Tickets/Train Conductor Northern Railway,
Bikaner Jn. R/O Railway Quarter T-26 Near Bikaner Railway
Station, Bikaner.

... Applicant

VS.

1. Union of India, through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. General Manager, (P) Northern Railway, Hqr. Office Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Bikaner.
4. Divisional Personnel Officer, Northern Railway, Bikaner.
5. Sh. Pardeep Kumar Vishnoi Chief Inspector Tickets Northern Railway, Rewari Jn. C/O Station Supdt., Northern Railway, Rewari (Haryana).

... Respondents

Mr. Bharat Singh, Counsel for the Applicant.

Mr. V.D. Vyas, Counsel for the Respondents Nos. 1 to 4
None is present for Respondent No.5

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member
Hon'ble Mr. A.P. Nagrath, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. A.P. NAGRATH)

The applicant was initially appointed as Booking
Clerk (Commercial Clerk) on ad hoc basis on 16.7.1975, against

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what has been described as 'Loyal Quota'. On his own request, his category was changed to that of Ticket Collector under letter dated 27.4.1978. He occupied that post on 23.5.1978. Later, vide orders dated 01.6.1979, General Manager Northern Railway cancelled the orders dated 27.4.'78, whereby category of the applicant had been changed to Ticket Collector, on the ground that he had been appointed as Rest Commercial Booking Clerk on ad hoc basis and change of category of employees appointed on ad hoc basis is not permissible. This order was again ~~revived~~ by Headquarters office on 31.6.82, and it was decided by the competent authority to restore the approval of change of category as had been communicated vide letter dated 27.4.'78 (subsequently cancelled on 01.6.'79). In the meantime, the applicant continued to work as Ticket Collector only. To this extent, the facts are admitted by either side.

2. The applicant has felt aggrieved by the letter dated 04.2.'97 (Annexure A/1) informing him that he is assigned seniority in the cadre of Ticket Collectors with effect from 14.4.1980. He has prayed for quashing of this order and for a direction to the respondents to treat his date of seniority in the cadre of Ticket Checking Staff as on 23.5.1978.

3. Applicant's case is that he has continued to work in the Ticket checking category right from 23.5.'78, and under respondents' letter dated 31.8.'82, he was regularised as such. He has also been promoted in the cadre as Head Ticket Collector w.e.f. 1.1.'84, and further as Chief Inspector Tickets/Train Conductor w.e.f. 01.3.'93 based on his seniority as Ticket Collector from 23.5.'78. He submits that respondents having assigned this seniority to him cannot suddenly change the same to his detriment after 18 long years and that this action of the respondents is illegal, improper and unjust and not sustainable in the eye of law.

4. Respondents in their reply have supported their action on the ground that some of the Goods Clerks/Booking Clerks had challenged Railway Board's order dated 14.4.1980 giving seniority to ad hoc appointees against 'loyal quota' from the date of their initial appointment in case of those who were appointed in excess of 20%, before this Bench of the Tribunal, whereupon the Hon'ble Tribunal set aside the Railway Board's order dated 14.4.1980 to those of the ad hoc appointees who were in excess of 20%. Railway administration filed SLP in the Hon'ble Supreme Court against the said order of the Tribunal, but the same was dismissed vide judgement dated 06.4.1993. Further, it has been decided in consultation with both the Unions to assign seniority to such staff, who were appointed on ad hoc basis in excess of 20% w.e.f. 14.4.80. Consequently, seniority of the applicant was revised as Commercial Clerk to 14.4.1980. Accordingly, the respondents contend that he cannot be assigned seniority as Ticket Collector prior to this date.

5. Applicant has filed a rejoinder to the reply of the respondents. Apart from reiterating his position as in the O.A., he has submitted that he was appointed only against prescribed 20% quota. He has stated that he was not a party to any of the O.As, T.A. and SLP wherein some Commercial Clerks had assailed the seniority position of those appointed against loyal quota in excess of 20%, thus decision in those cases have no effect on his case. It has been categorically refuted that he was appointed in excess of 20% quota.

6. Learned Counsel for the applicant reiterated the ground taken in the written pleadings. In this connection, he drew our attention to the orders of Hon'ble the Supreme Court dated 06.4.1993 in the SLP, relied upon by the respondents to emphasise what the Apex Court directed that the

judgement of the Tribunal shall be operative inter parties only. He contended that since the applicant was already a Ticket Collector and not a Commercial Clerk, these case have no bearing on his seniority.

7. Learned Counsel for the respondents advanced the arguments that the applicant was initially appointed as ad hoc Commercial Clerk and as a result of the orders of the Hon'ble Tribunal in the cases of Commercial Clerks, the seniority of those appointed in excess of 20% had to be revised necessarily. The department has a mechanism of consultation with the two recognised Unions. It was decided in consultation with the Unions to assign seniority to such ad hoc appointees in excess of 20%, w.e.f. 14.4.'80. Thus, applicant had also been assigned that seniority as a Commercial Clerk. Since change of category was an event subsequent to his appointment as Commercial Clerk, he cannot claim seniority as Ticket Collector from any date earlier than 14.4.1980.

8. We have given our anxious consideration to rival contentions and the pleadings brought on record. We find from the letter dated 14.11.'82 (Annexure A/3) issued by Divisional Personnel Officer, Bikaner that the change of category of the applicant, which was earlier cancelled by Headquarters Office vide letter dated 01.6.'79 was ordered to be restored, which meant that the applicant continued as Ticket Collector, from whichever date he occupied the position. Significantly, this letter of the Divisional Personnel Officer Bikaner further stated : "Accordingly, services of Shri Sugan Singh, in the category of Ticket Collector grade Rs.260-400 (RS) stands regularised." It is also clear from Annexure A/1 that the respondents vide their letter dated 27.5.'86 had assigned seniority to the applicant as Ticket Collector grade Rs.260-400 w.e.f. 23.5.'78 (wrongly typed apparently as 23.6.'78). Our specific

query to the learned Counsel for the respondents whether any material was available to support that the applicant was initially appointed in excess of 20% quota could elicit no such evidence. we find Hon'ble the Supreme Court had directed specifically in the SLP, reference to which has been made in the earlier paragraph as under :

"Heard learned Counsel for the parties, Keeping in view the facts and circumstances of the case we are not inclined to interfere with the impugned judgment of the Tribunal. These Special Leave Petitions are dismissed. We further make it clear that the judgment of the Tribunal shall be operative inter parties only." (emphasis supplied)

It is admitted that the applicant was not a party in any of the Petitions before the Apex Court. On the dates of filing of these O.A.s covered by this SLP, he was already working as a Ticket Collector, a cadre different from that of Commercial Clerk. In this view of the matter, we hold that the case of the applicant is not affected by the outcome of those petitions. The applicant was assigned seniority as Ticket Collector w.e.f. 23.5.78, and respondents cannot change that date to the disadvantage of the applicant. Order of the respondents changing the date of seniority of the applicant as Ticket Collector from 23.5.1978 to 14.4.80 is arbitrary and not sustainable under the rules and law.

9. In view of the facts and circumstances of the case, we allow this Original Application and quash the order dated 04.2.1997 (Annexure A/1). We further direct the respondents to treat the date of seniority of the applicant as Ticket Collector as 23.5.1978. The applicant shall be granted all consequential benefits arising out of this order. Parties are left to bear their own costs.

(A.P. NAGRATH)
Adm. Member

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12/11/2001
(A.K. MISRA)
Judl. Member

Received copy
May 19/07
Recd copy
J. G. Oley
Retro
6/1/2007

Part II and III destroyed
in my presence on 20-3-07
under the supervision of
section officer as per
order dated 19/1/2007

Section officer (Signature)