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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH,
JODHPUR**

O.A.NO.237/2002

May 8, 2007

**CORAM : HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN &
HON'BLE MR. TARSEM LAL, MEMBER (A)**

Bhoj Raj son of Shri Jagannath Caste, Maru Presently working T.T.E. Northern Railway Bikaner R/o Near Water Stand Bidasar Bari, Gangashahar Road, Bikaner (Rajasthan).

Applicant

BY : Mr.Nitin Trivedi, Advocate for Mr.M.K.Shrimali, Advocate.

Versus



1. Union of India through General Manager, Northern Railway Headquarter Office Baroda House, New Delhi at present Union of India through General Manager Uttar Paschim Railway Headquarter at Old Loco Colony Area, Jaipur.

Divisional Railway Manager, Northern Railway Divisional office, Bikaner at present Divisional Railway Manager, Uttar Paschim Railway Divisional office, Bikaner.

Divisional Personnel officer, Northern Railway Divisional office, Bikaner at present Divisional Personnel officer, Uttar Paschim Railway, Bikaner Division, Bikaner.

Respondents

By : Mr.Mr.P.M.Vyas for Mr. K.K.Vyas, Advocate.

ORDER

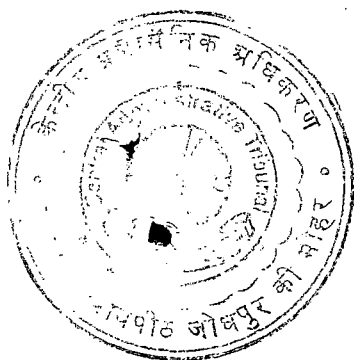
KULDIP SINGH, VC

This O.A. has been filed by the applicant challenging the order dated 14.2.2002 (Annexure A-1), issued by the Divisional Personnel Officer, Bikaner whereby the representation of the applicant for assigning him seniority position on the basis of his appointment as Group C employee w.e.f. 6.11.1986, has been rejected.

2. The facts in brief as alleged by the applicant are that he made an application for appointment on compassionate grounds. He was offered appointment vide Annexure A-2 as Khalasi, Group D post. In the letter of offer of appointment, it was specifically mentioned that the applicant is being offered appointment in Class IV post till he is

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offered appointment in Class III post. The applicant submits that by this it was recognized that he is eligible for appointment to Class III post and he was offered appointment to Class IV post till such time he was to receive a second offer of appointment as Class III. The applicant thereafter approached this Tribunal by filing O.A.No.77 of 1988, which was allowed and the following orders were passed :



"13. We, therefore, allow this application and direct the respondents that the applicant should be appointed on the post of clerk grade III in the Accounts Department of the Bikaner Division, where he had been found suitable, immediately and in no case later than 3 months from the date this order is communicated to them, if a vacancy is available otherwise immediately on occurrence of the next vacancy. Looking to the circumstances of the case. We make no order as to costs."

On the basis of the said judgment the applicant submits that it has been held that applicant was to be given the post of clerk. However, the applicant was given ad hoc appointment as Timber Machine man, a Grade III Post, vide letter Annexure A-3, dated 4.11.1991. Meanwhile the applicant continued to make representations for regular appointment as Class III employee. The applicant received a letter, Annexure A-6 whereby he was asked to appear in the written examination for a Group III post of Ticket Collector, on compassionate grounds, in which the applicant participated with protest that he has already been held eligible for appointment to the post of Clerk, a Group C post. However, he is participating in the examination so that he may not lose the opportunity of getting post of ^{group III} clerk. So, the applicant appeared in the written examination. Thereafter the applicant was approved for the post of Ticket Collector in the grade of Rs.950-1500 (RPS). He was sent for training and he joined as Ticket Collector. A seniority list was issued vide Annexure A-

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14, wherein the name of the applicant was shown as a direct recruit Ticket Collector and seniority has been shown from the date of appointment as Ticket Collector at Sr.No.206. Aggrieved against the same, the applicant made a representation dated 3.12.2001 wherein he had made a request that since he was initially approved for appointment against Group C post by the department but he could not be given appointment as vacancy was not available and he was given appointment in Class IV post as Khalasi and secondly he was promoted in Class III post as Timber Machineman Grade Rs.260-400 w.e.f. 1.11.1991, even though he never requested the department to appoint him as Timber Machine man, so he should be assigned seniority in class III w.e.f. 6.11.1986 when he was initially approved for group C post and not from the date he has been appointed as

Ticket Collector. The said application has been turned down vide Annexure A-1. Thus, the applicant has prayed for quashing of the same.



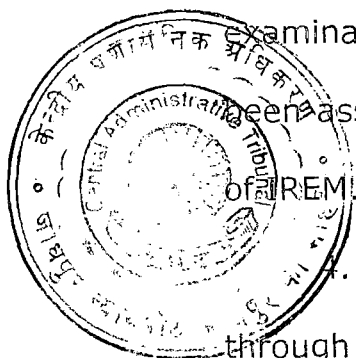
3. Respondents who are contesting the O.A. plead that applicant was appointed as temporary khalasi on 6.11.1986 as per Annexure R-1. Recommendations were sent to the Headquarters office for his posting in the grade of Rs.950-1500, in the accounts department as Accounts Clerk. However, the FAO & CAO (Admn.) did not accept recommendations on the ground that since the applicant has already been appointed as class IV, he cannot be appointed as class III now. Filing of O.A. is admitted. Judgment was submitted by the applicant to the railway authorities for compliance. But since there was no vacancy in the accounts department, he could not be given appointment in the accounts department. However, it was decided that applicant should be given Group C post. Accordingly, the applicant was called for written test and interview and he was recommended for

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appointment as Ticket Collector, Gr. Rs.950-1500. After having been approved, he was appointed to the post of Ticket Collector Grade Rs.950-1500 on compassionate grounds. He was sent for training. Ultimately he was appointed vide annexure R-2, as Ticket Collector and the applicant has been correctly assigned seniority as Ticket Collector on the basis of his merit position as laid down in para 303-A of the IREM which provides that candidates who are sent for training, after qualifying examination will be assigned seniority in the order of merit obtained at the end of training, before being posted against working post. Those, who join the subsequent courses for any reasons, what so ever, and those who pass the examination in subsequent chances will rank junior to those who had passed the

Examination in earlier courses. Thus, it is submitted that applicant has been assigned seniority correctly as per the provisions of para 303-A of IREM.



4. We have heard the learned counsel for the parties and gone through the pleadings.

5. ~~Admittedly~~ ^{Learned} learned counsel for the applicant submitted that since he was initially approved for Group-III post so he should have been assigned seniority w.e.f. 1986. He also submitted that if he cannot be assigned seniority from 1986, then he should be given seniority from 1991 i.e when he was promoted on ad hoc basis as Timber Machine man, when he started officiating against a Group C post.

6. In our view, the contentions of learned counsel for the applicant have no merit because the cadre of all these three posts are altogether different and independent. Firstly, the applicant was appointed as Khalasi which is a separate cadre having separate seniority list. Secondly, the applicant was given appointment as ad hoc

Timber Machine man, a Group C post, having different cadre and seniority list. Thirdly the applicant was given appointment as Ticket Collector. This is also a separate cadre with separate seniority. Now since the applicant has joined cadre of Ticket collector his seniority is to be governed by the rules of seniority applicable to the cadre of ticket collector. The department has submitted on record para 303-A of the IREM as per which the applicant has been assigned proper seniority. The said para being relevant is reproduced as under :

"303. The seniority of candidates recruited through the Railway Recruitment Board or by **any other recruiting authority** (emphasis supplied) should be determined as under :--



(a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses".

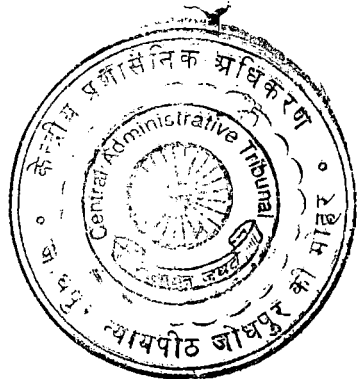
The language of the above rule is very clear. It speaks of assignment of seniority to candidates recruited through RRB or ***by any other recruiting authority*** in the relevant grade in the order of merit obtained at the examination held at the end of the training before their posting against working post. The applicant though not recruited through the Railway Recruitment Board, but his case is covered by the term "any other recruiting authority". In this case, paragraph 303-A comes into play which prescribes procedure for assignment of seniority to persons who are appointed as a result of examination and training like the post of Ticket Collector. In this case also the appointment to the post of Ticket Collector entails participation in the written

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examination and undergoing training before actual appointment takes place. The merit obtained at the end of such training is the determining factor for grant of seniority.

7. However, learned counsel for the applicant has referred to paragraph 311 of the IREM which speaks about the determination of seniority of those candidates who are transferred from one cadre to another cadre in the interest of administration, their seniority is to be determined by date of promotion / appointment to the grade. The same being relevant is reproduced as under :

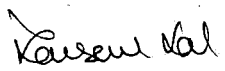


"311. TRANSFER IN THE INTEREST OF ADMINISTRATION - Seniority of Railway servants on transfer from one cadre to another in the interest of the administration is regulated by the date of promotion / date of appointment to the grade as the case may be".

The applicant tried to cover his case under para 311 and stated that his case is not of a fresh recruitment rather it is a case of transfer from one cadre to another cadre. In our view this contention of learned counsel for the applicant is without any merit because it is only after the judgement given in the earlier O.A. filed by the applicant that a fresh process of appointment of the applicant to the group C post had been initiated and since FA&CAO had refused to give appointment as there was no post in Accounts Department. The department in their wisdom tried to adjust him against the post of Ticket Collector and asked him to appear in the written test and then he was issued letter to appear in the written test vide Annexure A-6. It also mentions the subject of the letter as appointment on compassionate grounds and the applicant has been appointed as Ticket collector after the process had been completed for appointing him on compassionate grounds as ticket collector. ^a The applicant's case cannot be ^{created} ~~covered~~ as a case of

transfer from one cadre to another cadre. The applicant was working as Khalasi before being appointed as ^{Ad hoc} Timber Machine man and then as Ticket Collector. Being an ad hoc appointee, he never became member of service of Timber Machine man as he continued to work on ad hoc basis only and thus he cannot be termed to have been transferred from one Group C post to another Group C post in another cadre.

Thus, the applicant for all practical purpose has been appointed against a Class III post, as a Ticket Collector only on regular basis, for which post he underwent written test and training etc., and he has rightly been assigned seniority as Ticket Collector and his representation has rightly been turned down. No interference is called for with the impugned order and as such the O.A turns out to be devoid of any merit and is dismissed leaving the parties to bear their own costs.


(TARSEM LAL)
MEMBER (ADM.)


(KULDIP SINGH)
VICE CHAIRMAN

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