

19

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

.....
Date of Order : 15.05.2003.

O.A.NO. 96/2002

Bhag Chand Meena S/o Shri Bhagwana Ram Ji, aged about 46 years, Resident of Quarter No. T 50-B, Railway Traffic Colony, Hanumangarh Junction, at present working on the post of Chief Goods Supervisor in the office of Station Superintendent, Northern Railway, Hanumangarh Junction.

.....Applicant.

Mr. S.K. Malik

For the Applicant.

versus

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

.....Respondents.

Mr. Salil Trivedi

For the respondents.

.....
CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
Hon'ble Mr. A.P. Nagrath, Administrative Member

Embd

ORDER

[per Mr. Justice G.L.Gupta]

The challenge in this O.A. is of the Order Annexure A/1 dated 5th April, 2002, whereby, the applicant has been ordered to be reverted to the post of Goods Supervisor in the scale of Rs. 5500-9000 from the post of Chief Goods Supervisor in the scale Rs. 6500-10500.

2. The facts. The applicant was initially appointed as Goods Clerk in 1982. He was promoted as Senior Goods Clerk in 1984 and Head Goods Clerk w.e.f. 21st October, 1984. He became Goods Supervisor w.e.f. 1st March, 1993. While working as Goods Supervisor, he being the senior most person, was promoted as Chief Goods Supervisor on ad hoc basis in the grade of Rs. 2000-3200 w.e.f. 3rd May, 1994. The post of Chief Goods Supervisor is a selection post. The respondent authorities held a selection test for the post but the applicant could not qualify and hence, he was not empanelled. He, however, continued to hold the post of Chief Goods Supervisor on ad hoc basis. In the seniority list of Goods Supervisors issued on 9th March, 1995, the name of the applicant was shown at Sl. No. 4. In the revised seniority list issued on 16th September, 1998, the applicant was shown at Sl. No. 1. In the year 1998, the respondents decided to conduct the selection for the post of Chief Goods Supervisor. However, that exercise did not materialise as the selection process was challenged by some persons by filing O.A. No. 112/1998 and the selection process was quashed by this Tribunal vide orders Annexure A/8 dated 3rd August, 2001. The applicant still continued to hold the post of Chief Goods Supervisor on ad hoc basis.

3. The grievance of the applicant is that the respondent

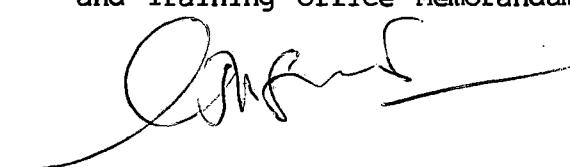


authorities have issued Notice Annexure A/9 to the applicant on 25th February, 2002 indicating that he could not be allowed to continue on ad hoc basis for further period and there was a proposal to revert him to his post in the grade Rs. 5500-9000 and thereafter the respondents have passed the order Annexure A/1.

4. The say of the applicant is that his reversion is against the relevant circulars and rules and he being the senior most Goods Supervisor, is entitled to continue on the post of Chief Goods Supervisor.

5. In the reply, the respondents' case is that there were eight posts of Chief Goods Supervisor for which a selection was held in the year 1994 but, only three candidates could succeed and the applicant did not qualify and thereafter, again steps were taken to initiate the selection process in 1997 and 1998 but, because of the Court order, the selection could not be held. It is stated that the Railway Board's Instructions are to the effect that ad hoc appointment cannot prolong for long time and because of the judgement in the case of Ajeet Singh Juneja, the seniority list has been revised and the applicant has been placed at Sl. No. 27 and, therefore, he has been reverted. It is further stated that the cadre strength of the Chief Goods Supervisor is 13 and the percentage of Scheduled Tribe candidates comes out to .97 percent which is equal to 1 percent, whereas, 5 Scheduled Tribe candidates are already holding the post of Chief Goods Supervisor.

6. In the rejoinder, the applicant states that 7 posts of the Chief Goods Supervisor are still lying vacant and there cannot be any justification of reverting the applicant after a long period of more than 8 years. It is stated that the Department of Personnel and Training Office Memorandum and the Railway Board's Circulars



issued pursuant to the Ajeet Singh Juneja's case have been stayed by the Hon'ble Supreme Court.

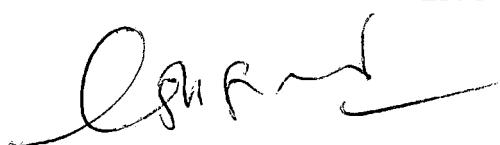
7. In the reply to the rejoinder, it is reiterated that the applicant did not qualify the selection and he being on ad hoc basis, does not have a right to retain the post.

8. We have heard the learned counsel for the parties and perused the documents placed on record.

9. During the course of arguments, the learned counsel for the applicant brought to our notice that order dated 1st January, 2003 has been issued whereunder, the seniority list of the Goods Supervisors has been revised in which the name of the applicant has been shown at Sl. No. 1.

10. It was pointed out that pursuant to the amendment in the Constitution the Department of Personnel and Training has issued the Memorandum dated 21st January, 2002, the effect of which is that the seniority of the reserved category candidates remains intact even if they had got accelerated promotion and as a result of the revision of the seniority position, the applicant's name comes at Sl. No. 1 in the seniority list of the Goods Supervisors. In other words, he is now the senior most Goods Supervisor.

11. It may be that the applicant has continued on the post of Chief Goods Supervisor for the last more than eight years but, this promotion on the post of Chief Goods Supervisor was not regular. It is on ad hoc basis. It is a settled legal position that the ad hoc appointment for a number of years does not confer a right on an employee to continue on the post. It has been held by the Apex Court in the case of Dr. Anuradha Bodi and others versus Municipal



Corporation of Delhi and others, reported in 1998 (5) SCC 293 that there is no right of regularisation from the date of ad hoc appointment. It may be that as per the Railway Board's Circular the ad hoc appointment should not have been allowed for such a long time but the applicant who has taken advantage of such appointment, cannot challenge it. In any case, the continuance of the ad hoc appointment for a number of years, does not confer a right on the employee to continue on the post. The applicant cannot succeed in this O.A. in challenging the order Annexure A/1.

12. It is a different thing that while giving promotions on ad hoc basis the seniority of the employees is to be kept under consideration and as per the revised seniority list, the applicant now stands at Sl. No. 1. It is for the respondents to consider as to whether the post of Chief Goods Supervisor is to be filled or not. Needless to state, in case, the post is filled up, the senior most persons will be considered for the post.

13. Consequently, we find no merit in this O.A. in so far as the challenge to the Annexure A/1 is concerned. The O.A. is dismissed with the observations made in preceding paras. No order as to costs.


[A.P.Nagrath]
Adm. Member


[G.L.Gupta]
Vice Chairman

.....

jrm

Part I
Part II
Part III
Part IV

21/5/63

21/5/63

Part II and III destroyed
in my presence on 21/5/63
under the supervision of
Section Officer (L) as per
order dated 21/5/63

N.G.O.
Section Officer (Record)