

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

This the 31st day May, 2000.

T.A. No. 118/92

(O.A. 415/87)

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

1. Phool Singh Chargeman 'B' T.T. Shop, Loco Workshop Charbagh, Northern Railway Lucknow.

2. All India S.C & S.T. Railway Employees' Association Central Committee, C/o Qr. No. C-73/3, Manak Nagar, Lucknow.

3. All India S.C. and S.T. Railway Employees' Association, Loco Workshop branch, Charbagh, Lucknow.

By Advocate Shri Surenderan P.

versus

1. The General Manager, Northern Railway Baroda House New Delhi.
 2. Addl. Chief Mechanical Engineer(W), Northern Railway, Loco Workshop, Charbagh Lucknow.

Respondents

By Advocate Shri S. Verma.

ORDER(ORAL)BY D.C.VERMA, MEMBER(J)

The applicant No. 1 Phool Singh has been working as Chargeman B on adhoc basis. By the impugned order, dated 27.6.86 (Annexure -1 to the O.A.) the applicant was reverted to the post of Highly Skilled grade I due to posting of R.K. Tripathi, Apprentice Mechanic on Tool Maker Trade. The applicant has challenged the impugned order of reversion.

2. It is admitted fact that after restructuring, there were only 3 posts of Chargemen B in the scale of Rs 425-700. As per rule, the post of Chargeman B is filled up by three different modes. 50% was to be filled up by direct recruit quota, 25% from Limited Departmental Competitive Examination (in short LDCE) and 25% from amongst Mistri and Highly Skilled grade I i.e. from amongst the Rankers quota.

3. After restructuring, only 3 posts of Chargemen B were left to be filled up by three modes indicated above. As per recitals made in the Counter Affidavit, after restructuring on 26.6.86, three posts were being held by Niranjan Dey, Rajjan Lal and Phool Singh i.e. the applicant. Niranjan Dey and Rajjan Lal were Intermediate apprentice mechanic and were holding the post under 25% LDCE quota. The applicant Phool Singh had been promoted on adhoc basis to hold the post of Chargeman B vide order dated 26.6.84 (Annexure 6 to the O.A.). None from the direct recruit quota was holding the post on that date.

4. The submission of the learned counsel for the respondents is that one S.K. Sharma was earlier holding the post of Chargeman 'B' on direct recruit basis but on being promoted to the post of Chargeman 'A' w.e.f. 1.1.84, on account of restructuring, no incumbent was holding the post of Chargeman B on direct recruit basis. Consequently, by the impugned order dated 27.6.86 R.K. Tripathi Apprentice Mechanic on Tool Maker trade was posted as Chargeman B and the applicant Phool Singh who was only officiating and holding the post of Chargeman on adhoc basis, was reverted.

5. We have heard the learned counsel for the parties and have gone through the pleadings on record.

6. Admittedly, after restructuring, there were only three posts of Chargeman 'B'. As per rule, the post of Chargeman were to be filled by three modes, 50% by direct recruitment, 25% from LDCE and 25% from Rankers. Proportionately, therefore, 1.5 posts by direct recruitment, .75% post by A.D.C.E. and .75% posts by Rankers. In the peculiar circumstances of the present case, the only reasonable and equitable proportion would be that one post be filled up by direct recruitment, one by LDCE and one by Ranker. The submission of the learned counsel for the respondents is that as the direct recruit is to get 1.5 post, 2 posts be given to the direct recruits, is in our view totally unjustified. In case the submission of the learned counsel for the respondents is accepted, two posts would go to direct recruit and the only left out one post has to be filled up either from amongst rankers or through LDCE, meaning thereby that by one mode recruitment would be made.



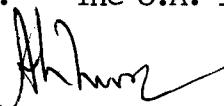
Thus, in the given circumstances, in our view one each post has to be filled up by the three modes.

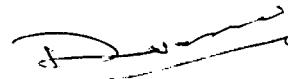
7. As per recitals made in the C.A., the impugned order reverting the applicant to the post of Skilled grde I was passed on 27.6.86. The position as on 27.6.86 is indicated in para 15 of the Counter reply. As per recitals made in para 15, two persons namely, Niranjan Dey and Rajjan Lal were holding the post of Chargeman B against LDCE quota basis and Phool Singh was holding the post on adhoc basis as a Ranker. Out of the three posts of Chargeman B available on 27.6.86, only one post should have been filled up on the basis of LDCE quota whereas two persons were holding the post. No doubt, no direct recruit was holding the post of Chargeman 'B' on the date the impugned order was passed, but the respondents could not have shifted the applicant while posting R.K. Tripathi as Chargeman 'B'. As persons holding the post on LDCE basis were in excess of their quota, shifting of Phool Singh was not warranted. No doubt, Phool Singh was posted on adhoc basis, still vacancy was being held by Phool Singh against rankers quota, as no other person was holding rankers quota post. Applicant was not occupying the quota meant for direct recruits. Though the impugned order has been reverted as Highly Skilled grade I because of transfer of R.K. Tripathi, a direct recruit. So the order is not valid.

8. During the course of arguments the learned counsel for the respondents has submitted that during the pendency of the present O.A. the applicant Phool Singh has been promoted on regular basis as Chargeman 'B' against rankers quota.

9. Accordingly, the impugned order Annexure-1 dated 27.6.86 is quashed to the extent of applicant's reversion. The applicant shall be deemed to be holding the post of Chargeman 'B' with consequential benefits continuously till the date he has been regularly promoted.

10. The O.A. is allowed accordingly. Costs easy.


MEMBER(A)


MEMBER(J)

Lucknow; Dated: 31.5.2000

Shakeel/