

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD
Lucknow Circuit Bench

D.A. No. 275
T.A. No.

1989 (L)

DATE OF DECISION

Ram Duttar Singh Petitioner

Sri D. Bhatia
Mr. K. Bharpurav
Mr. Rakesh Asthana Advocate for the Petitioner(s)
Versus

C. M. NER, Girakchand & Others
Respondent

Sri Arjun Bharpurav Advocate for the Respondent(s)
A. V. Verma

CORAM :

The Hon'ble Mr. Justice K. Nath, M.C.

The Hon'ble Mr. K. Obayya, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to all other Benches ?

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Lucknow Circuit Bench
Registration O.A. No.275 of 1989(L)

Ram Autar Singh Applicant

Versus

General Manager, North Eastern Railway,
Gorakhpur & Others Respondents

Hon. Mr. Justice Kamleshwar Nath, V.C.
Hon. Mr. K. Obayya, Member (A)

(By Hon. Mr. K. Obayya, AM)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to quash the order of promotion of respondent No.5 dated 24.10.1989 and to promote the applicant in accordance with the old channel of promotion by extending the benefit of the order of this Tribunal dated 21.1.88 in O.A. No.129 of 1986 with all consequential benefits.

2. The applicant's initial appointment was to the post of Ticket Collector (TC) in the North Eastern Railway in the grade of Rs.260-400. The channel of promotion from the post of Ticket Collector is to the post of Senior Ticket Collector (Rs.330-560) and thereafter to the post of Head Ticket Collector (Rs.425-640). Further promotion was to the post of Chief Ticket Collector (Rs.550-750). This is a regular channel of promotion. There is also another channel of promotion whereby exercising option a Ticket Collector could be promoted to the post of TTE (Rs.330-560) and further promoted to the post of Travelling Ticket Inspector (TTI) (Rs.425-640) and from there to the post of Chief Ticket Collector. The promotion in both the channels was on the

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basis of seniority-cum-fitness. In this system there was common grade at the level of initial recruitment as Ticket Collector and also at the level of Chief Ticket Collector where the post in the Ticket Collector and the TTE line came to be merged. Beyond this, the promotion was on the basis of selection. The feeder post for the promotion of Chief Ticket Collector was the grade of Rs.425-640 where persons in the same grade working as Platform Inspector, Conductors etc. were also eligible for promotion to the post of Chief Ticket Collector. While this was so by an order dated 20.11.84, General Manager, North Eastern Railway, Gorakhpur passed the orders acting on the instructions of the Railway Board for merging of all channels and constituting one cadre right from the post of Ticket Collector to the post of Chief Ticket Collector. In other words, the optional line of TTE, TTI etc. was done away with.

3. Aggrieved by the above said order some of the employees who were already working in the grade of Rs.425-640 moved this Tribunal in O.A. No.129 of 1986. Their contention was that they are already working in higher post duly selected under the old channel of promotion and as such they should not be made to look back to their old seniority but they should be allowed to take seniority from the promotion post. The Tribunal considered their contentions and upheld that their seniority should not be disturbed. The applicant in the instant case claims that he is similarly placed and as such the benefit of that decision should also be extended to him but his representations to the authorities in this regard have been of no avail.

4. The respondents have not chosen to contest the case. We have heard the learned counsel for the applicant and also perused the record. The basis of the claim of the applicant is the order of this Tribunal in O.A. No.129 of 1986. We have carefully gone through this order. The Tribunal upheld the order of General Manager dated 24.10.85 so far as it related to abolition of multi channels of promotion and making it a common cadre for the Ticket Collectors irrespective of the post they held subsequently. The Tribunal's view was that the cut off date which was subsequently fixed as 31.12.83 was not sustainable on the ground that the new cadres came into existence on 1.12.84 and that the applicants had already been promoted under the old system. They observed that "there was no necessity of making this adjustments and therefore the applicants should be allowed to continue on the post to which they had been promoted in the grade of Rs. 550-750 in the combined cadre on the basis of the old avenue of promotion chart".

5. We do not wish to comment on the order of the Tribunal so far as the necessity or otherwise/perhaps one view could that the Tribunal could not go into the aspects of necessity or otherwise but we could only look into whether the orders were just and proper.

6. A careful scrutiny of the order dated 21.11.84 indicates that the principle of combined cadre scheme would be brought into effect from 1.12.1984. The

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reasoning given in para 3 is as follows :-

"At the present moment upto scale of Rs.425-640 TTEs cadre and the TCs cadre are separate. The merger is taking place at Rs.550-750 grade and, thereafter Rs.700-900 grade is a Selection post for the combined cadre.

For the Commercial purposes, the work of the Ticket Collector and TTE are same in content. So both the cadre will henceforth be a combined cadre. All the new entrants and those who are now working in the initial grade of Rs.260-400 on the T.C. side and LR TC side, will be utilised henceforth to TTEs side / ^{and} the seniors will work on the line and juniors at stationary posts. The options so far taken from people to work as TTEs and not yet promoted, should also be cancelled and they will all be put on a common pool.

In order to protect the interest of people who have already been promoted from the initial grade to the higher grades on the basis of separate avenue of promotions, the avenues of the TCs cadre and TTE cadre from grades Rs.330-560 right upto 700-900 will be independent for promotion and there will be no merger of the two cadres at any intermediate point i.e. Rs.550-750 or Rs.700-900 over a period of time, the existing incumbents of a separate cadre will run out the system and the combined cadre will get established at each level of promotion."

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From the above it would appear that the Railway Administration has been fair and they have protected the interest of those who were already promoted according to the old channel. They were not to be reverted even if they become junior in the revised common cadre seniority but their promotion would be reckoned against future vacancies as per their turn. One view could be that the revised channel of promotion brings in a larger measure of ~~one~~ equality & that the seniority at the initial stage is given due weightage for further promotions since such

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promotions being solely on the basis of seniority and also the administrative point of view appears to be that a larger cadre will enable them flexibility to pick right and proper people for right jobs based on performance; their placements would be on either line jobs or stationary jobs. It is also indicated that the seniors should be preferred for line job and juniors would remain in stationary jobs. As these orders were issued to subserve larger interests of the employees and provide a unified channel of promotion right from the entry point as T.C. (Rs 260-400) upto C.T.C. (Rs 550-750) giving leverage to the administration to post employees to line jobs and stationary jobs based on their performance and suitability, eliminating draw backs inherent in the multi-channel system of juniors marching ahead of their seniors by taking ~~approx~~ optional TTE channel, we are of the view that the contention of the applicant that introduction of single system has caused hardship is misplaced. We consider that these orders are in the right direction to ensure promotions on principle of seniority-cum-fitness, promotions upto 550-750 grade being on the basis of seniority.

7. The orders dated 20.11.84 are to be effective from 1.12.84, according to the Railway Board circular. But this date has been pushed back to 31.12.83 by order dated 16.5.85./the General Manager, Northern Railway. The latter order by the G.M. modifying Board's orders are liable to be quashed, as G.M. cannot negate a benefit contained in what is a policy decision of the Railway Board. Accordingly, we quash the order dated 16.5.1985 issued by the General Manager (Annexure 5).

8. The applicant was in the grade of Rs 550-750 on 20.11.84. In terms of the order dated 20.11.84, his position in this grade has to be maintained. From Annexures 3, it is noticed that he was transferred from the post of C.T.C. Sitapur to that of D.T.T. Gonda and on 28.11.84 he was posted as Conductor Lucknow and subsequently by an order dated 5.8.85 he was posted as C.T.C. Sitapur, all in the same grade (Rs 550-750). The contention of the applicant that he was reverted is factually incorrect.

9. As on 1.12.84, the applicant was holding the post of a Conductor at Lucknow (Rs 550-750). Presumably this post has better perquisites. Taking the facets and circumstances of the case, we direct the respondents that:

i) the applicant should not be reverted to a lower post. He should be continued in the grade (Rs 550-750).

ii) If the post of Conductor has better perquisites, that post may be offered to the applicant giving weightage to his seniority in terms of order dated 20.11.84.

10. The application is disposed of as above with no order as to costs.

R. P. Singh
Member (A)

R. P. Singh
Vice Chairman.

Dated the 10th Dec., 1990