

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A.No.353/89

Monday this the 14th day of February, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

SC Rastogi, Personal Inspector
Office of the Divl Railway Manager
Northern Railway,
Lucknow.

... Applicant

(By Advocate Mr. L.P. Shukla)

Vs.

1. Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi.
2. Chief Personnel Officer
Northern Railway,
Baroda House, New Delhi.
3. Divisional Railway Manager
Northern Railway, Hazratganj, Lucknow.
4. Senior Divisional Personnel Officer,
Northern Railway, Hazratganj, Lucknow.
5. Sri Arun Shama, Personal Inspector,
Divisional Railway Managers Officer
Northern Railway, Hazratganj, Lucknow.
6. Sri Reman Shama -do- ... Respondents

(By Advocate Mr. Anil Srivastava)

The application having been heard on 14.2.2000, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant and respondents 4&5 were selected and
empanelled for promotion to the post of Personal Inspector
while they were working as Senior Clerks. The respondents
5&6 were placed below the applicant in the panel. As
per the printed S1.No.6814A dated 15.7.77 as also the
letter dated 27.9.85 of the General Manager, Senior Clerks
before appearing for the selection examination as also
after selection and empanelment for promotion as Personal

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Inspector should exercise their option to come into that cadre ~~and~~ for all further career advancements. Once final option is given after placing in the panel the option is not reversible. The applicant as also respondents 5&6 were promoted as Personal Inspectors. The applicant had a grievance that the respondents 5&6 and another person had been given stationary post while the applicant was put in charge of adjudication factual job analysis team which involved outsider duties and touring. Since the family ground of the applicant was not congenial for such an outsider job the applicant made a request to the Divisional Railway Manager for a stationary posting or for leave. This request was not acceded to. Hence he made a request for reversion to the post of Senior Clerk. The request of the applicant was acceded to and he was reverted to the post of Senior Clerk by order dated 29.10.86. While the applicant was reverted to the ministerial cadre, the ministerial staff association made representation against it. The applicant also made a representation (Annexur .A.8) on 24.11.86 seeking cancellation of the order of reversion. The above representation of the applicant was accepted and the 4th respondent passed the order dated 13.2.87 cancelling the order of applicant's reversion and allowing him to continue to work as a Personal Inspector in the grade Rs.425-640 (1400-2300 revised) posting him at PCDO Seat. The respondents 5&6 challenged the cancellation of the applicant's reversion and restoration of seniority as according to them they became entitled to be senior to the

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applicant by a representation which was rejected by the third respondent by order dated 19.9.88 (Annexure.A.11). Aggrieved by that they took up the matter before the second respondent. The second respondent on consideration of the above representation passed Annexure.12 order dated 15.11.88 holding that Shri Rastogi the applicant would rank junior in seniority to respondents 5&6 as he has got seniority in the list of P.I. after facing reversion only on joining back i.e., with effect from 13.2.87. The applicant aggrieved by A12 order made a representation to the second respondent which was rejected by the impugned order A.16. It is aggrieved by that the applicant has filed this application. According to him the 4th respondent could not have reverted the applicant as he had given his irrevocable option to go as a Personal Inspector and therefore as per the rules and instructions on the subject, the applicant was not to lose his seniority. The applicant has also stated that the reliance placed on the printed sl.7126 and 8876 (A.13 and A.14) is misplaced and the second respondent has mislead the above two circulars. With these allegations the applicant seek to have the impugned order set aside and his seniority restored.

2. We have heard the learned counsel of the applicant as also Shri Anil Srivastava learned counsel for the respondents 1 to 4. That the applicant and respondents 5&6 were placed in one and the same panel for promotion to the post of Personal Inspector and that the applicant was placed above respondents 5&6 are not

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in dispute. That the applicant was ~~reverted~~ as a senior Clerk with effect from 29.10.86 and rejoined that post on 13.2.87 is also not disputed. The sole question that calls for consideration is as the option of the applicant after empanelment for promotion to the post of Personal Inspector having been final whether the 4th respondent was competent to revert ~~him~~ as Senior Clerk even if he was so reverted on re-promotion whether he would get his seniority over respondents 5&6. As far as the competence for reversion is concerned, though the option after empanelment is said to be final, there is no embargo on the competent authority in entertaining a request of an employee for being ~~reverted to a lower~~ post. It was only on the request of the applicant that he was reverted.

3. Regarding the question whether the applicant would lose his seniority over respondents 4&5 or would ^{it} regain/on his restoration to the post of Personal Inspector, the instructions contained in Circular No.6814A are abundantly clear. From the clarification given in the circular 7126 and 8876 it is very clear that in a case where after promotion one has been reverted on his request the bar for consideration for promotion would operate just as a personnel who has declined to accept promotion. In this case as the applicant has been reverted on his request those who were placed in the same panel along with the applicant and were promoted would undoubtedly rank and continue senior to the applicant. We, therefore, do not find any infirmity in the order passed by the second respondent in this case.

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4. In the result, the application fails and the same is dismissed leaving the parties to bear their own costs.

Dated the 14th day of February, 2000

J.L. Negi

J.L. NEGI
ADMINISTRATIVE MEMBER

A.V. Haridasan

A.V. HARIDASAN
VICE CHAIRMAN

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