

410

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

....

Registration O.A. No. 80 of 1989(L)

Inayat Ulla Applicant

vs

Union of India and others ... Respondents

Hon' D.K. Agrawal, J.M.

Hon' K. Obayya, A.M.

(By Hon' D.K. Agrawal, J.M.)

This application under section 19 of the Administrative Tribunals' Act, 1985, was filed on 11-4-1989 with the prayer that the order of reversion dated 27-3-1989 contained in Annexure-6, be quashed and the applicant be declared promoted as Junior Booker in the Office of Branch Manager, Films Division, Lucknow.

2. Briefly, the facts are that the applicant was appointed as Film Checker on 1-12-1967, promoted in due course on the post of Film Shipper and confirmed as such. The next promotion post was that of Junior Booker.

3. According to the Recruitment Rules the post of Junior Booker is required to be filled 50% by direct recruits and 50% by promotion from among Film Shippers who has put in 5 years regular service on the post. During the year 1984, a panel for filling up regular vacancies of Junior Booker falling under promotion quota

was drawn. Before drawing up the panel, the option from eligible candidates, regarding station of posting was obtained. The applicant gave option for his posting at Lucknow. The panel was drawn on December 4, 1984, wherein the name of the applicant also found place. However, since the applicant opted only for Lucknow, he was not promoted because at that time, 8 vacancies on the post of Junior Booker existed at Stations other than Lucknow, like, New Delhi, Bangalore, Vijayawada, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum. The applicant was offered the promotion post at Hyderabad, but he declined to accept the same as his option was for posting at Lucknow, resulting in loss of seniority. However, the applicant continued to be posted on the post of Junior Booker on ad-hoc basis. Subsequently, Ministry of Personnel, Public Grievance and Pension (Department of Personnel and Training) issued instructions vide Office Memorandum No. 28036/8/87-Estt (D) dated March 30, 1988, which inter-alia laid-down that all the ad-hoc appointments should be reviewed and in any case no ad-hoc appointment should be continued beyond one year from the date of issue of Office Memorandum. Consequently, all ad-hoc appointments including that of the applicant were reviewed. The Ministry of Information and Broadcasting advised the Department to terminate all ad-hoc appointments by March 30, 1989. As a result thereof the impugned order dated 27-3-1989 was issued, whereby the person holding the ad-hoc

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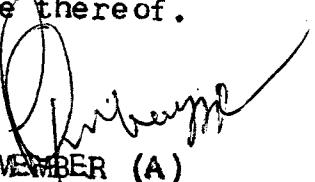
appointment as Salesman was reverted to the post of Senior Booker, the person holding ad-hoc post as Senior Booker was reverted to the post of Junior Booker and the applicant holding the ad-hoc appointment on the post of Junior Booker was reverted to the post of Film Shipper.

4. The subsequent development may also be stated to appreciate the controversy in question. One Radhey Shyam holding the post of Junior Booker at Vijayawada Branch Office was transferred on the post of Junior Booker in the Branch Office at Lucknow, vide order dated 15-5-1990. The applicant has raised his grievance in respect thereof. His contention is that although he has been made to loose his seniority only because he had opted his posting at Lucknow on the post of Junior Booker, but when the post of Junior Booker at Lucknow fell vacant, it has been offered to a junior person and the applicant has not been accomodated.

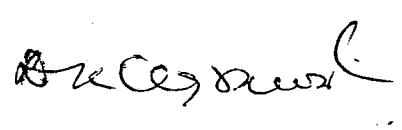
5. In the background of the facts stated above, it is clear that the applicant despite his empanelment for the post of Junior Booker could not be offered promotion on the post of Junior Booker for the last 3 years or so only because he exercised his option to remain at Lucknow. The only reason given out by the opposite party authority for the posting of Radhey Shyam at Lucknow is on the post of Junior Booker is that

he required medical treatment. We fail to understand, as to how the medical facilities were not available at Stations like, New Delhi, Bangalore, Madurai, Bombay, Nagpur, Hyderabad and Trivandrum etc. We are not at all satisfied with the explanation offered by the competent authority. It does not appear equitable to deny the seniority to the applicant, as well as, deny him the posting at Lucknow, when such a vacancy occurred at Lucknow. Fairness requires that the applicant should have been posted at Lucknow on the post of Junior Booker in the vacancy which occurred in May, 1990 or occurs hereinafter. We consider it proper to direct opposite parties to seriously consider the applicant for posting at Lucknow. We do expect opposite parties to act as a model employer and exhibit all fairness to its employees.

6. In view of the prayer clause contained in claim petition, as mentioned above in para no.(1), we cannot grant any relief to the applicant, because the reversion order dated 27-3-89 contained in Annexure-6 cannot be held to be illegal or bad in law. Therefore, this claim petition is to be dismissed, but we are dismissing it in the light of our observation made above in para 5 of the judgment and direct the respondents to make compliance thereof.


MEMBER (A)

(sns)


MEMBER (J)

September 28th, 1990,
Allahabad.