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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No.100 of 1990(L)

Dinesh Chandra Mishra ..... Applicant

Versus

Union of India & Others..... Respondents

Hon.Mr.Justice U.C.Srivastava,V.C.

Hon.Mr. A.B.Gorthi, Member (A)

(By Hon.Mr. Justice U.C.Srivastava,VC)

The applicant who was a Junior Ticket Inspector posted at Varanasi has approached this Tribunal praying that the respondents may be directed to regularise his services on post of Head Ticket Collector with effect from 1.7.81 with all consequential benefits of the promotion to the higher post and that he may be given promotion to the post of Chief Inspector of Tickets with effect from 1.1.1984. Earlier the applicant was holding the post of Head T.C. on 20.7.81 & vide order dated 23.12.82 he was reverted to the post of Ticket Collector. The applicant filed a Writ Petition No.10 of 1982 in the High Court of Lucknow Bench against his reversion order from the post of Head Ticket Collector which was subsequently transferred to this Tribunal and this ~~Hon.Mr.~~ Tribunal after hearing the parties allowed the petition by quashing the reversion order dated 23.12.82 and also issued direction to the respondents to regularise the services of the applicant on the post of Head Ticket Collector in accordance with law with all other consequential benefits vide its judgement dated 24.10.89.

(AP)

The Tribunal held that there was no manner of doubt that the applicant cannot be called upon to appear in the written test for the purpose of regularisation on the upgraded post of Head T.C. ~~220~~ as he has already completed 18 months of adhoc service on that post prior to the date of examination. The reversion order was quashed. Thereafter the applicant was regularised on the post of Head T.C. with effect from 1.1.84 and not from 1.7.81 on which date he completed 18 months of service. The applicant was given promotion to the post of Junior Ticket Inspector on 2.2.90 which order is said to have been passed in compliance with the direction given by this Tribunal referred to above. The applicant has alleged that the persons who have been promoted on the post of Head T.C. in grade of Rs.425-640 vide its order dated 23.12.82 and other persons who have been promoted on the post of Senior Inspector of Tickets in the same grade with effect from 3.3.84 much after the promotion of the applicant and who have been promoted in the higher grade and at present they are working on the post of Chief Inspector of Tickets in the grade Rs.700-900 (RS 2000-3200) with effect from 1.1.84. He has specifically mentioned that ~~the name of~~ U.R. Tiwari who was promoted on the post of Head T.C. w.e.f. 23.12.87 was again promoted to the post of Chief Inspector of Tickets in the grade of Rs.700-900 (RS 2000-3200) w.e.f. 28.5.85 who is junior and promoted to the post of Head T.C. after regularisation of the applicant. The grievance of the applicant is that the Railway Board Circular dated 13.8.59 has provided the guidelines and basis of fixation of seniority of non-gazetted staff in

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~~non-cancellation~~ <sup>Selection 2</sup> post providing therein that staff once promoted against the vacancy which is fortuitous he should be considered as senior in that grade to all other persons who are subsequently promoted.

2. The respondents in their reply have stated that the applicant was promoted to the post of Junior Inspector of Tickets strictly as per his turn on seniority list without superseding his erstwhile seniors consequent upon his regularisation on the post of Head T.C. As per seniority the applicant stands at Sl.No.6. In compliance of the Tribunal's judgement the services of the applicant were regularised and all the consequential benefits were given to him. So far as the promotional post is concerned, it has been stated that the Chief Inspector of Tickets was a selection post and the applicant was called to appear in the said selection. He did not appear and he could not be promoted unless he qualifies in the selection for the said post. It is also relevant to mention that on the Division where the applicant is working, the adhoc promotion of Head T.C. against the panel of 1.1.79 had already been finalised hence there was no vacancy to regularise the applicant in the grade of Rs.425-640 prior to 1.1.84. As a result of upgrading of vacancies, the said post became available only on 1.1.84 and accordingly the applicant's services were regularised w.e.f. 1.1.84. So far as Shri U.R.Tiwari is concerned, it is stated that he was promoted as Head T.C. w.e.f. 23.12.87 and again promoted to the post of Chief Inspector of Tickets w.e.f. 28.5.84 i.e. prior to 23.12.87, this is simply not possible.

It appears that the respondents who have not denied that persons who were promoted as Head T.C. on 23.12.82 and those who were promoted to the post of Senior Inspector much after the promotion of the applicant promoted to the higher grade has not been denied but only evasive reply has been given taking the benefit of the typing mistake instead of 23.12.82 it has been typed out as 23.12.87 which is on the record of respondents. The respondents have stressed that the applicant has been regularised under the orders of the Tribunal. It is stated on behalf of the applicant that Shri S.P.Srivastava was promoted alongwith him to the post of Head T.C. on 25.2.81 in which the applicant was promoted against the clear vacancy of one Shri G.P. Srivastava but Shri S.P.Srivastava was promoted temporarily as officiating ~~but Shri S.P.Srivastava~~ <sup>2</sup> ~~was promoted to the post of~~ Chief Inspector of Ticket in the year 1984 but the claim of the applicant was denied arbitrarily by the Railway Administration. Regarding non-availability of the <sup>post of</sup> Chief Inspector of Tickets, it is wrong to say that there was no vacancy of the post of Chief Inspector of Tickets but the true fact is that one Shri Y.B.Misra vide order dated 8.6.90 has been appointed as Chief Inspector of Tickets on adhoc basis.


3. From the facts it has been stated that it is quite clear that the order of the Tribunal was not faithfully observed. As a matter of fact the applicant was to be regularised after completion of 18 months and there is no justification whatsoever either factually or legally to postpone the matter and promote the applicant after three years. After completion of 18 months <sup>of Adhoc service</sup> the applicant is entitled to be regularised on

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the adhoc post and he should have been considered for higher promotional post. There was no provision for the higher post to appear in the examination for any test. The applicant did not appear in the test obviously on the ground that he was not required to appear in any test. The fact also makes it clear that the respondents have not stated correctly as to what promotional post was available inasmuch as one person has been promoted in the year 1990. His junior has also been promoted earlier than him. Thus the applicant has not been given fair, just and proper treatment. In this way, the application deserves to be allowed and the respondents are directed to give promotion to the applicant to the post of Head Ticket Collector just after completion of 18 months of adhoc service i.e. from the year 1981 and also to promote the applicant to the higher post in case any junior has been promoted. Obviously the applicant shall be promoted with effect from the date his junior has been promoted. The applicant's seniority will be fixed after regularisation his services with effect from the year 1981. Let a decision be taken in this regard finally within a period of three months. With the above direction this application is disposed of finally. There will be no order as to costs.

  
Member (A)

  
Vice Chairman

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Dated the 21 July, 1991.

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