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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A. No. 174/86

Shanti Brasad

Applicant

versus

General Manager, Northern Railway and others

Respondents.

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

Hon. Mr. K. Obayya, Adm. Member.

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

The applicant has challenged the promotion of some of the respondents on the ground that he has been superseded by his juniors in the matter of seniority and the seniority list which was made, was not published and in case promotion rules would have been followed and he would have not been discriminated, the applicant would have been promoted much earlier and would have become senior to the respondents 4 to 10.

2. The applicant was appointed as casual labour in the year 1973 (on 20.6.1973) on the Northern Railway Electrification Allahabad which was a work charged and temporary unit of the Northern Railway but later on it was decided that a large number of casual labourers working in the unit were to be transferred and absorbed in the Permanent unit of Northern Railway. 50 casual labours

including the applicant working in the Northern Railway Electrification Allahabad were screened ~~max~~ for transfer and absorption in the regular cadres of different departments of the Lucknow over the Northern Railway on 22.4.1977 and on 25.4.1977. According to him he was listed for transfer and absorption in the department of respondent No. 3 vide order dated 27.4.1977 and the name of the applicant appeared at serial No. 48. As a result of the transfer and screening and absorption the applicant who was spared from Allahabad, joined his duties under C.T.I./NR/LKO on 4.5.77, where he was posted in the capacity of unskilled Khalasi in the grade of Rs 196-232. He was entitled to promotion to the post of Semi skilled, Skilled, Highly skilled Grade II and Highly skilled Gr. I and by virtue of his seniority the applicant was due for promotion to the grades mentioned above. But the seniority list was not published and the applicant was superseded in this manner, although coming to know of the same he has been making representations after representations.

2. According to the respondents, the applicant cannot claim any seniority or promotion. It has been pointed out that by them that most of the respondents were promoted in the year 1979 or in the year 1984, but the applicant did not challenge the seniority

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list in the year 1979 or 1984, which according to the applicant was not known to him. The applicant was never appointed on the post of unskilled Khalasi but he was appointed as temporary status casual labour against T.L.A. because he had completed 120 days continuous service as casual labour. Vide letter dated 2.7.1977 the applicant was given temporary status. He was placed before the screening committee and after being successful a panel was formed on 6.5.80 and in this panel he was placed at serial No. 5, whereas the respondent No. 4 was appointed on 17.11.80 as casual labour under Signal Inspector Lucknow, in Lucknow Division itself. The applicant was declared surplus in the Railway Electrification, Northern Railway, Allahabad and as such he had no lien in Lucknow Division. The General Manager, Northern Railway as an act of grace considered the staff of Railway Electrification, Allahabad for absorption in other division in class IV category and due to this reason the applicant was absorbed in Lucknow Division as temporary status casual labour against T.L.A.

3. According to the applicant the respondents 4 to 10 are appointed in the Signal and Telecommunication Department which has two promotion and seniority units for Khalasis, namely ^{one} ~~one~~ for Signal and the other for Telecommunication Branches under the Signal

Inspector and Telecommunication Inspector and the casual labours shall count their seniority from the date of their posting in the regular cadre after screening and forming a panel. In case of a request for transfer from seniority and promotion unit to another the transfer shall take their seniority at the bottom below all those who were screened during February, 1978, a panel of 356 members was drawn for absorption in the regular cadre in the promotion and seniority unit of Signal Khalasis under the Signal Inspectors, whereas the applicant, as per allegation, was screened on 23.4.77 and 25.4.77 for absorption in regular cadre. It was on the basis of screening that he was absorbed ^{as} in the Khalasi in the unit of Telecommunication Khalasis under the Chief Telecommunication Inspector on 2.7.77 and was found medically fit. The respondents 4 to 10 were absorbed in the Seniority and Promotion Unit of Signal Khalasis under Signal Inspector sometimes after February, 1978 and thereafrer they sought for request transfer from Signal to Telecommunication unit and in this manner the applicant is senior to all these persons.

4. From Annexure 10 to the application it appears that the applicant was screened in the year 1977 and the names of the respondents were interpolated in in the year 1978. No clear cut explanation has been

given & given regarding this. The learned counsel for the respondents contended that the applicant should have challenged it earlier. The applicant has been making representations after representations and failing to get relief he approached this Tribunal. Notwithstanding the fact that the applicant was screened and medically examined for being absorbed at Lucknow, he was declared as surplus and notwithstanding that a decision which was taken earlier for absorbing him at Lucknow by way of grace he was sent to Lucknow as Khalasi, as such the decision is not clear. There is no dispute that the seniority list was not published. Accordingly the respondents are directed to consider this matter again taking into consideration the pleas taken by the applicant that he was screened in the year 1977 and the name of the respondents was interpolated in the year 1978, if that be so the applicant came into service earlier and he must be given due seniority and consequential promotion within a period of three months from the date of communication of this order and to consider that in the circumstances it may be said to be a case of bottom seniority or it would be applicable to each and everyone. No order as to costs

R. Bhargava

Adm. Member.

Vice Chairman.

Shakeel/

Lucknow: Dated 21.5.92.