

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A.No. 10/91

Lucknow this the 12 day of Feb., 2001.

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

Mangali Prasad aged about 44 years son of late balai Resident of Mawaiya Loco Colony, Qr. No. L 36 A, Lucknow.

Applicant.

By Advocate Shri Surendran P.

versus

1. Union of India through Secretary, Railway Board Railway Bhawan, New Delhi.
2. General Manager, N.E. Railway Gorakhpur.
3. Chief Personnel Officer, N.E. Railway Gorakhpur.
4. D.R.M. N.E. Railway Lucknow.
5. Divisional mechanical Engineer, N.E. Railway Lucknow.
6. Senior Divisional Personnel Officer, N.E. Railway, Lucknow.
7. Shiv Kumar, Chief Train Examiner, N.E. Railway, Gorakhpur.

Respondents.

By Advocate Shri S. Verma.

O R D E R

BY D.C.VERMA, MEMBER(J)

The applicant's claim is for re-fixation of his seniority over and above respondent No. 7 Shiv Kumar.

2. The admitted position is that the applicant was initially appointed as Khalasi on 8.1.65 in N.E. Railway (N.E.R.). Respondent No. 7 Shiv Kumar was employed with Northern Railway. The applicant Mangali Prasad was promoted as skilled grade I Machinist. The services of the applicant were occasionally utilised as Train Examiner (TXR)

against day today casualties if necessary.

Subsequently vide Annexure -2 dated 11.5.82 to the O.A., the applicant was promoted on adhoc basis to the post of TXR. Subsequently, by Annexure 5 to the O.A. dated 19.10.82, applicant Mangali Prasad was promoted on the post of TXR in the scale of Rs 425-700 and was given seniority in the grade of TXR w.e.f. the date of regular promotion i.e. 19.10.82. The claim of the applicant is that he be given the seniority in the grade of TXR w.e.f. the date of his adhoc promotion i.e. 11.5.82. The next point submitted before the Tribunal is that Shiv Kumar who was an employee of the Northern Railway, was transferred to N.E.R. on his own request, so Shiv Kumar ~~XXXXXX~~ was given seniority w.e.f. July, 1982 and in case the applicant is given seniority w.e.f. 11.5.82, Shiv Kumar would be junior to the applicant.

4. The respondents' case is that respondent No. 7 Shiv Kumar was already working in the grade of TXR on regular basis with the Northern Railway. Admittedly, the respondent No. 7 Shiv Kumar was transferred from Northern Railway Bhatinda to N.E. Railway and was posted in Lucknow Division. The respondent no. 7 joined at Lucknow Junction on 22.7.82 and was assigned the seniority from the date of joining in Lucknow. The respondents' case is that on 22.7.82, the applicant was working as TXR only on adhoc basis and was appointed as TXR on regular basis w.e.f. 19.10.82. Thus, the respondent No. 7 was assigned bottom seniority amongst the regular TXR. The point for consideration is that whether the applicant is entitled to seniority w.e.f. 11.5.82 or 19.10.82. In case the applicant's period of working on adhoc basis between 11.5.82 to 18.10.82 is counted towards his seniority, naturally, respondent No. 7 who joined on 22.7.82, would become junior to the



applicant. In case however, the applicant is not given the seniority w.e.f. 11.5.82, the applicant would be junior to respondent No. 7, as the applicant was appointed regular TXR from a subsequent date i.e. 19.10.82.

5. The counsel for the parties have been heard at great length. It is not denied that the post of TXR is a selection post. Annexure-2 dated 11.5.82 shows that the applicant was promoted purely on local and tentative arrangement basis to officiate as TXR. In the order it is mentioned that the promoted official would have no claim for seniority and future promotion. It is also not denied that a selection process was in progress for the post of TXR. A selection is held by written test. A notice for written examination alongwith list of employees who were to appear in the examination was issued on 14.4.82 vide Annexure A-3 to the O.A. The name of the applicant is at serial No. 20 of the list. In pursuance thereof, the applicant appeared in the examination. After written examination and viva-voce was conducted and final result of the examination was published. Vide Annexure A-5 dated 19.10.82 the applicant was appointed on regular basis as TXR. Thus, prior to 19.10.82 the applicant was not a regular TXR. The submission of the learned counsel for the applicant is that as the applicant has been regularly and continuously working as TXR, on adhoc basis on and from 11.5.82, the period should be counted towards seniority.

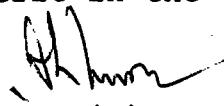
6. In our view, such a relief cannot be granted against a selection post. If by a local arrangement an official has been asked to work temporarily on a higher post, which is a selection post, the period for which an employee worked on local basis, cannot be counted towards seniority. In a selection post

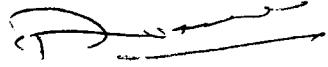
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seniority can be counted only from the date of selection. The period during which the applicant worked as TXR on adhco basis dehors the rules, cannot be counted towards seniority. In view thereof, the applicant's seniority can be counted only w.e.f. 19.10.82, the date on which the applicant was regularly appointed as TXR. The period between 11.5.82 to 18.10.82 cannot be counted towards seniority of the applicant.

7. In view of what has been held above, the respondent No. 7 who was regular in the grade of TXR prior to his transfer to N.E. Railway, would be senior to the applicant. The applicant would get seniority in the grade of TXR w.e.f. 19.10.82 and not w.e.f. 11.5.82.

8. In view of the above discussions, there is no merit in the O.A. The same is dismissed. Costs easy.


MEMBER (A)


K MEMBER (J)

Lucknow dated: 12-02-83

Shakeel/