

8/13

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
Lucknow this the 30<sup>th</sup> day of May, 2000.

O.A. No. 66/91

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

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

S.C. Agrawal son of Shri S.L. Agarwal, aged about 58 years resident of House No. 22 Vinay Khand, Gomti Nagar, Lucknow retired Chief Controller D.R.M. office, N. Railway Lucknow.

Applicant.

By Advocate Shri K.P. Srivastava.

versus

1. Union of India through General Manager, Northern Railway Baroda House, New Delhi.
2. General Manager, Northern Railway Baroda House, New Delhi.
3. D.R.M. Northern Railway, Hazratganj, Lucknow.

s.

Respondents.


By Advocate Shri Siddharth Verma.

O R D E R

BY D.C. VERMA, MEMBER(J)

S.C. Agarwal, the applicant of this O.A. has claimed seniority over Shri G.P. Saxena in the seniority list issued in 1978 (Anneuxre A-1) and corresponding entry in the Anneuxre A-9 and A-10. The applicant has also claimed consequential benefits ~~over his junior~~ after fixation of seniority as per printed serial No. 7331.


2. The brief facts of the case are that initially the applicant was appointed as Guard Grade 'C' on 20.11.54. Thereafter the applicant was promoted as Guard grade 'B' w.e.f. 14.6.71 in the scale of Rs 330-560. The applicant opted for control cadre and was fitted in the grade of Rs 270-380 on 1.8.72. Thereafter, the applicant was selected as Section Controller in the grade of Rs 470-750. The applicant's name was placed at serial No. 24 in the seniority list Anneuxre A-1. The applicant made representation for correction of seniority. Subsequently, revised seniority of section controller was issued by the respondents on 2.6.81 and the applicant's name was placed at serial No. 12. As per the claim of



the applicant, his name should have been at serial No. 7 in the seniority list Annexure -3. The applicant made representations on 4.10.88 and again on 7.10.88. The said representation was not decided, so the applicant filed O.A. No. 100/89 Inre S.C. Agarwal vs. Union of India and others. The Tribunal by its order dated 22.6.89 directed the respondents to decide the representation dated 7.10.88. The respondents decided the representation dated 7.10.88, by a detailed order on 7.3.90 (copy Annexure A-8). The applicant had been <sup>earlier</sup> promoted as Dy. C.H.C. w.e.f. 30.12.82. After considering the representation, the applicant was given promotion to the said post w.e.f. 13.10.81 on proforma basis in terms of Railway Board letter dated 15/17.9.64 and was also allowed actual payment of enhanced pay w.e.f. 30.10.82. The claim of the applicant to provide benefit of P.S. No. 7331 ~~was~~ however rejected by the Department, hence the present O.A.

3. The respondents have contested the claim of the applicant and have submitted that the post of R.T.A./SCNL in the grade of Rs 270-380 was a selection post and the applicant was only promoted on adhoc basis to the said post w.e.f. 1.8.72. As per the respondents, the applicant was selected to the post of Section Controller in the grade of Rs 470-750 and the panel was declared on 27.12.76, wherein the name of the applicant was included. The names of G.P. Saxena and B.D. Saxena were higher in the merit list. The other ground is that the P.S. No. 7331 came into existence through letter dated 15.6.79 and as such the provision of P.S. /7331 were not applicable to the panel announced in the year 1976.


4. Heard the learned counsel and perused the pleadings on record. The submission of the learned counsel for the applicant is that though P.S. 7331 is dated 15.6.79 it should be given back dated effect. The result of it would be, as claimed, that 30% <sup>be</sup> would/added to the pay of the applicant and the applicant would become senior to G.P. Saxena. As Guard grade B. The applicant was in the scale of Rs 330-560 but after addition of 30% the scale of applicant would be Rs 455-700. The submission of the learned counsel is that in Annexure-1, G.P. Saxena whose name is at serial No. 15 was only in the scale of Rs 425-640 and consequently, the




applicant's name would come up above G.P. Saxena. The seniority list Anneuxre A-1 shows that G.P. Saxena was in the grade of Rs 425-640 w.e.f. 23.6.59 and was confirmed in the same grade w.e.f. 3.6.62. At that period of time, as per the facts contained in the O.A., the applicant was only Guard grade C in the scale of Rs 80-170. The applicant opted for control cadre and was fitted in the grade of Rs 270-380 on 1.8.72 i.e. after G.P. Saxena had been confirmed in the scale of Rs 425-640 on 3.6.62. The applicant, therefore, cannot be given seniority above the name of G.P. Saxena. P.S. 7331 was issued on 15.6.79 and <sup>it</sup> is not mentioned therein that it is to be given retrospective effect. ~~Consequently,~~ ~~this P.S. is to be prospective.~~ The submission of the learned counsel that this should be given retrospective effect, cannot be accepted. If this is to be given retrospective effect, from which date the retrospectivity is to be given, is not disclosed in the petition. The applicant had been selected as Section Controller in 1976 and thereafter this P.S No. 7331 was issued in 1979. Consequently, the benefit of this P.S. would not be available to the applicant, in view of the facts of this case.


5. The learned counsel for the applicant has submitted that one R.A. Singh who was junior to the applicant had been given the benefit of this P.S. no. 7331. From the facts disclosed in the affidavit, filed on 26.4.96, it appears that R.A. Singh belongs to the running staff and was not selected as Section Controller. R.A. Singh belonged to different division and had come on transfer. During the course of arguments it had been admitted that the seniority list contained in Anneuxre -1 is not on All India basis. So, how and where the name of R.A. Singh, transferred to this Division, was placed, is a question which cannot be determined in this case. <sup>as</sup> R.A. Singh is not a party in the present O.A. and the detailed facts in respect of R.A. Singh have not been brought on record. Consequently, the applicant's claim with respect to running staff like R.A. Singh who has come from another division, cannot be examined in the O.A.

6. We have also seen the respondents order dated 7.3.90 (Anneuxre A-8) which is a detailed order giving reasons for not



accepting the applicant's claim. We do not find any ground to invalidate the same. Accordingly, we do not find any merit in the the O.A. and the same is dismissed. Costs easy.

  
MEMBER(A)

  
MEMBER(J)

Lucknow; Dated: 30.5.2000

Shakeel/