

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(10)

O.A. NO: 439/87

199

T.A. NO:

DATE OF DECISION 3.7.1992

NALINI KANT MISRA

Petitioner

G.S.WALIA

Advocate for the Petitioners

Versus

UNION OF INDIA AND ORS.

Respondent

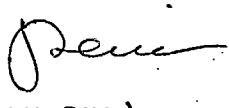
A.L.Kasture, for official resp. Advocate for the Respondent(s)
RamHarchandani for Res.No.4

CORAM:

The Hon'ble ~~XX~~ USHA SAVARA, MEMBER(A)

The Hon'ble Mr. J.P.SHARMA, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(J.P.SHARMA)
M/S

mbm*

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO. 439/87

Nalini Kant Misra
Working as Sr. Console
Operator, In E.D.P.M.,
Office, W.Rly, Churchgate
Bombay - 400020

....Applicant

V/s

1. Union of India, through,
General Manager,
Western Railway,
Churchgate,
Bombay - 400020.

2. General Manager
W.Rly, Churchgate,
Bombay - 400020

and 2 others

....Respondents.

CORAM : HON'BLE MEMBER USHA SAVARA, MEMBER(A)

HON'BLE MEMBER SHRI J.P.SHARMA, MEMBER (J)

Appearance:

Shri G.S.Walia, for the
Applicant

Mr. Ram Harchandani, for the
Respondent No.4

Mr. A.L. Kasture, for the
Official Respondents.

ORAL JUDGEMENT

3rd JUL 1992

(PER : J.P.SHARMA, M/J)

We heard learned counsel for the applicant, who has
shown us a recent order issued on 10.6.1992, by which the

applicant has been selected for promotion to D.P.C. (Data Process Centre) Ajmer. He has also shown us, that the application given by the applicant dated 1.7.1992 to General Manager, Western Railway requesting that in view of his association for the last 21 years in Computer Room he may be allowed to continue in Computer room for all purposes.

In view of this, learned counsel for the applicant prays for time pointing out that he has to amend the original application. The challenge is to reversion order dt. 24.2.1987; his seniority w.e.f. 1.7.82 and promotion of R-4 w.e.f. 16.2.1981.

2. The counsel for the private respondent No. 4 opposes this oral request of the counsel for the applicant and it is also opposed by the learned counsel for the official respondents.

3. We have gone through the records and we find that the applicant has filed this application on 24.6.1987 and there is already interim direction issued to the respondents Nos. 1 to 3, that they should not revert the applicant from his present post of Sr. Console Operator without obtaining the permission of the Tribunal. This order was passed on 1.7.1987, the order was clarified by order dated 12.10.1987 as the order has nothing to do with promotion to the post of Data Processing Supdt, and that the Department is at liberty to process promotion of eligible and suitable candidates to that/

3. In this application, the applicant has claimed the following reliefs.

I. This Hon'ble Tribunal will be pleased to call for the records and proceedings which led to the issuance of office order No.106 of 1986-87 dated 24.2.1987 'Ex.E Hereto) and after going through the legality propriety, validity and constitutionality thereof quashed and set aside the same.

II. This Hon'ble Tribunal will be further pleased to hold and declare that the applicant is entitled to count the seniority as a Head Punch Operator with effect from 1.7.1982 and as such the applicant is senior to Respondent No. 4 and 5 as a Head Punch Operator in scale of Rs.1400-2300 (RS)

III. This Hon'ble Tribunal will be further pleased to hold and declare the proforma promotion given to Respondent No.4 with effect from 16.2.1981 to 15.12.1983 is irregular, illegal and arbitrary and as such this period cannot be counted for seniority as a Head Punch Operator.

4. ^{The ap;} Having given careful consideration to the oral submission of learned counsel for the applicant we do not adjourn the matter any further. The cause of action is still on the basis of adhoc order dated 1.1.1987 and the issue involved is of the seniority of Head Punch Operator 1400-2300. This application is only filed to that specific issue. It is nothing to do ^{with the} subsequent promotion, if any, adhoc or ^{on} regular basis of the applicant by the order dated 10.6.1992, which has been shown today

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We therefore called upon the parties to address their arguments on the merit of the application.

5. After the arguments commenced and the learned counsel for the applicant referred to various stages of promotion mentioned of promotional post from Punch Operator (in the Punch Room) to D.P.S. describing in para 6.3 of the O.A. The learned counsel also stated that his seniority may also be gone into not only on the post of Head Punch Operator, but also on the post of General Supervisor (Machine) and Data Process Supdt., the last post to which he is promoted on 10.6.1992. The learned counsel also emphatically urged that he requested for amendment which has been refused so he can proceed with the case. At this stage, learned counsel for the applicant stated that he wants to withdraw his application.

6. The learned counsel for the respondents No.4 opposed this withdrawal and stated that the respondent No.4 has been unnecessarily harassed time and again in this case.

7. The respondent No.4 has also filed a comparative chart of her services and that of the applicant.

8. Be that it may be, we on our part had to dispose of an old matter in which a stay ^{has been} granted by the Tribunal on 1.7.1987 against the reversion of the application. Since, learned counsel for the applicant wants to withdraw the application, we allow to do so subject to claim of costs by the private respondent No.4.

6.5.