

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO:

1987

T.A. NO: 349/87

(12)

DATE OF DECISION 10-3-91

Prabhunath

Petitioner

Sri R.J. Anthony

Advocate for the Petitioner's

Versus

Govt. & Others

Respondent

Sri P.N. Chanderbar

Advocate for the Respondent(s)

Oral Judgment By

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

CORAM:

The Hon'ble Mr. Justice V.C. Srivastava, V.C.

The Hon'ble Mr. M.J. Bhadkar, Member

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 ?

4

mbm*

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH
CIRCUIT BENCH : NAGPUR

Registration C.A.No. 349 of 1987

Prabhunath Applicant

Vs.

Union of India & Others.... Respondents

Coram:-

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

Hon'ble Mr. M.Y. Priolker,Member (A)

Appearance:-

Shri R.T.Anthony for the applicant &
Shri P.N.Chandurkar for the respondents

Oral Judgment:-

(Per: Hon'ble Mr.Justice U.C.Srivastava,V.C.)

Dated: 10th March, 1992

before the High Court
This Writ Petition filed by the applicant is
for issuance of writ of certiorari or direction for
quashing the order passed by the Divisional Personnel
Officer, South Eastern Railway, Nagpur and to issue an appropriate order to the respondents to restore and give effect to the seniority list published in 1976. This petition has been transferred to this Tribunal by operation of law under section 29 of the Administrative Tribunals Act, 1985. The applicant who was appointed as Travelling Ticket Examiner in South Eastern Railway, Nagpur. He was promoted as Ticket Collector on 18.4.1971 and was subsequently promoted as Senior Ticket Collector on 1.1.1979. According to the applicant he was senior to the respondent No.6 yet the respondent no.6 has now been made senior to him, and given the higher post. As per the allegation of the applicant the respondent n o.6 was appointed as Assistant Station Master on 19.8.1960 and

he took mutual exchange for inter-divisional transfer and came as Assistant Master in Nagpur Division and his seniority as Assistant Station Master ranked in Nagpur Division giving him the date 4.3.1962. The respondent no.6 failed in the medical category required for the post of Assistant Station Master. He was thus medically declassified for class A-2 on 29.7.1972. As such he was absorbed as Booking Clerk on 23.8.1972 as desired by him for change in the category. He was posted as Ticket Collector 23.10.1982. In the seniority list of Ticket Collectors in the Grade of Rs.260-400/- published by the Divisional Personnel Officer on 15.4.1974 the applicant has been shown at serial number 96 and the respondent no.6 was shown at serial number 107. Subsequently another seniority list was published on 14.8.1981 in which the applicant was shown at serial no.61 and the respondent no.6 was shown at serial no.72. On 12.2.82 another seniority list was issued in which the respondent No.6 was given at serial no.67 instead of serial no.107, with the result that he was made senior to the applicant. According to the applicant as the respondent no.6 was the member of declassified staff and he was required to be absorbed in the alternative employment which he could not have claimed unless training was not given and as no training was given to the respondent no.6 he even otherwise could not have ranked senior to the applicant and that is why he approached the High Court in the year 1985.

2. The Railway Administration have opposed the application and filed a preliminary objection stating that the application has been filed after the lapse of three years and that is why it should be dismissed on the ground that it is barred by limitation, and it could not be entertained. However on merits it has been pointed out that the respondent no.6 while working as ASM in the scale of Rs.330-560/- revised to Rs.1200-2040/- was medically declassified on 29.7.1972

but was declared fit in B.2 medical category, and after screening he was absorbed as Commercial Clerk in the scale of Rs.110-200(AS)/Rs.260-430(RS)/Rs.975-1540(RPS) and was deputed for learning duty of the proposed post. Before taking the independent charge as Commercial Clerk he opted for his alternative posting as a Ticket Collector in the lower grade to accept bottom seniority. Accordingly he was absorbed as Ticket Collector in the pay scale of Rs.950-1500(RPS) with effect from 23.10.72. In view of the Railway Board's circular dated 19.11.64 the respondent no.6 was assigned his seniority from 4.3.62 and interpolated vide item No.6A in the seniority list published on 24.8.81 to meet the justice to the said to the R.No.6. The said circular provides as follows:

"The medically declassified staff absorbed in alternative posts, whether in the same or other cadres should be allowed seniority in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade irrespective of the rate of pay fixed in the grade of absorption under the extentrules. In the case of staff who are in grade higher than the grade of absorption at the time of medical declassification, total service in the equivalent and higher grade is to be taken into account".

In view of this the respondent no.6 services were taken into account and that is why the seniority list was corrected and he was placed at No.6A.

3. As such the respondents have acted in view of the said circular of the Railway Board which has got a statutory force and as such it cannot be said that the respondent no.6 was wrongly given the seniority and as matter of fact he was given the due seniority which he was entitled to in view of the decision made by the Railway Board in his circular dated 19.11.64 extracted above. Accordingly there are no

(16)

-4-

merits in this application and it is dismissed. There will
be no order as to costs


Member (A)


Vice-Chairman

10th March, 1992, Nagpur.

(sph)