

(65)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP AT NAGPUR

O.A. NO: 910/88

199

~~TXXXXX~~

DATE OF DECISION 14.11.1991

V.K. Swami

Petitioner

Mr. S.V.Naik

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Mr. P.S.Lambat

Advocate for the Respondent(s)

CORAM:

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

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

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 ? ✓

mbm*

✓
(U.C.Srivastava)
V/C

(06)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
CAMP AT NAGPUR
* * * * *

Original Application No.910/88

V. K. Swami,
Train Ticket Inspector,
South Eastern Railway,
Nagpur.

... Applicant

V/s

1. Union of India, through the
General Manager,
South Eastern Railway,
Garden Reach, Calcutta.
2. The Divisional Personnel
Officer, SE Railway,
Nagpur.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y. Priolkar

Appearances:

Mr. S.V.Naik, Advocate
for the applicant and
Mr. P.S.Lambat, Counsel
for the respondents.

ORAL JUDGEMENT:

Dated : 14.11.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant who was initially appointed in the Railway Service as a Ticket Collector in the year 1954 gradually got certain promotions and was promoted as T.T.E. 'B' Grade in the scale of 330-560 and was confirmed in the said post on 1.1.1970. In the year 1976 the applicant was faced with a departmental enquiry for major penalty charge but ultimately he was exonerated. Again, another charge sheet was issued to him on 30.3.1983. There had been two charges against him. One was proved and the other was not proved and the punishment which was awarded to the applicant in the year 1986 was that three sets of privilege passes due to the applicant were withheld. In the mean time it appears that promotion to the higher grade took place but the applicant was not considered for the same. He was

... 2/-

promoted in the scale of 425-640 with effect from 1.1.1984 against the upgraded post as a result of restructuring of the cadre of ticket checking staff against the existing vacancy. The applicant thereafter made certain representations claiming the scale of 550-750 and proper fixation of his seniority alleging therein that all the staff junior to him have been found suitable and promoted as T.T.I. in the scale of 550-750 against the restructuring cadre with effect from 1.1.1984 on which date he was also entitled to the same. As the applicant's representations did not find favour in the past he appealed to the higher authority and there also failing to get any relief on the same he has approached this Tribunal. The respondents have pointed out that the applicant has undoubtedly become due for promotion to the grade of 550-750 with effect from 1.1.1984 against the restructuring cadre but the list of senior candidates including the name of the applicant was placed before the Selection Committee and the Selection Committee found him unsuitable and that is why he was not promoted. It has been further stated that the applicant was promoted as T.T.I. in the scale of 550-750 with effect from 18.4.1987 purely on adhoc basis pending suitability test. Although suitability tests took place thereafter four or five times but the applicant did not appear in the same with the result the candidates junior to the applicant were promoted and became senior to him. On behalf of the applicant it has been contended that as the applicant has passed the suitability test once he was not required to appear in the suitability test again. In this connection he has made reference to paras 4.1 and 4.2 of Circular dated 2.1.84 which read as follows:-

"4.1 The existing classification of the posts covered by these restructuring orders as 'Selection' and 'Non-selection' as the case may be, remains unchanged. However, for the purpose of implementation of these orders, if an individual railway servant becomes due for promotion to only one grade above the grade of the post held by him, at present, on a regular basis, and such higher grade post is classified as a Selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service records without holding any written and/or Viva-voce test. Naturally, under this procedure, the categorisation as 'Outstanding' will not exist.

4.2 In case, however, as a result of these restructuring orders, an individual railway servant becomes due for promotion to a grade more than one grade above that of the post held by him at present on a regular basis, the benefit of the modified procedure of selection as aforesaid will be applicable only to the first such promotion (if that post happens to be a 'Selection' post) the second and subsequent promotions, if any, will be based only on the normal rules relating to filling in of 'Selection' or 'Non-selection' posts (as the case may be)."

The very rule itself makes it clear that the applicant who was claiming the higher grade, of course, the adjudication of suitability is necessary. The applicant was offered the same but he did not appear in the same on the ground that once his suitability has been judged and, therefore, his suitability was not to be judged again. It appears that there is some confusion on the part of the applicant and that is why he did not offer himself for the suitability test. Even now he can offer

himself for the suitability test and in case he offers himself for suitability test and succeeds in the same there appears to be no reason why he will not be promoted with effect from the due date to which he may be entitled taking into consideration his seniority and the case. Accordingly we direct that the applicant may be given two more opportunities for participating in the suitability test and if he succeeds in either of them he may be given regular promotion with effect from the date to which he may be entitled. This opportunity should be given to him within a period of two months. The application stands disposed of with the above directions. No order as to costs.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman

v/-