

(16)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.424/86

Mrs.Chinamma Mukundan,
A-21, J.R.Hospital Flat,
Western Railway, Maratha Mandir,
Bombay Central - 400 008.

.. Applicant

vs.

1. Divisional Railway Manager,
Western Railway,
Bombay Central,
Bombay - 400 008.
2. Chief Hospital Superintendent,
Jagjivan Ram Hospital,
Bombay Central,
Bombay - 400 008

and 14 others.

.. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman

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

Appearances:

1. Mr.G.D.Samant
Advocate for the
Applicant.
2. Mr.A.L.Kasturey
Advocate for
Respondents No.1 & 2
3. Mr.S.Natarajan
Advocate for
Respondents No.
9,10,11,12,14,15 & 16

ORAL JUDGMENT:

(Per M.Y.Priolkar, Member(A))

Date: 29-4-1991

The applicant was working as Staff Nurse at Bulsar Hospital of Western Railway, when she made a request for transfer to Bombay. In Western Railway there are two seniority units namely Bombay Division and Jagjivan Ram Hospital as far as postings in Bombay City are concerned. According to the rules if an employee is transferred ^{at} ~~his~~/her won request, he/she is entitled to only bottom seniority i.e. placed last below the last officiating employee in the unit to which he/she is

17

-: 2 :-

transferred. Although the applicant had applied for transfer to Bombay, she could be accommodated only at Jagjivan Ram Hospital on 7-2-1968 and was given bottom seniority in that seniority unit. Subsequently in 1980 the seniority of both these units namely Bombay Division and Jagjivan Ram Hospital was combined and it is the applicant's grievance that in the new combined seniority list of February, 1980 her name has been shown below some of the employees of the Bombay division who should have ~~been~~ *been* shown as junior to her.

2. The respondents have opposed the application by filing their written statement. We agree with their contention that the applicant having made the request for transfer knowing fully that she would be given bottom seniority cannot now make a grievance for fixing her seniority in accordance with the rules. The applicant has specifically mentioned one Mrs. S.H. Shah who had also come at her own request on 30-6-1968 i.e. subsequent to the applicant but was shown above the applicant in the revised seniority list. In the counter the respondents have explained that the grant of this higher seniority to Mrs. Shah was an error and that this ~~error~~ error had been rectified in the subsequent seniority list notified on 8-11-1985 and Mrs. Shah is now shown below the applicant in that seniority list.

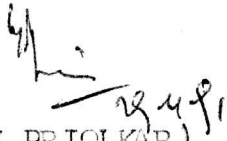
3. The only grievance that subsists is that this rectification was done on 8-11-1985 whereas, according to the applicant, Mrs. Shah on the basis of the earlier seniority was promoted on ad hoc basis in preference to the applicant on 21-2-1982. Mrs. Shah has


(18)

-: 3 :-

thus benefited to the extent of some additional remuneration by way of working in the higher grade which the applicant did not get. In our view the applicant should not have any justified grievance since her seniority as a regular promotee is protected now by placing her above Mrs. Shah and this seniority will be counted for all further promotions.

4. Since there is no specific violation of any rules which has been brought to our notice in fixing the applicant's seniority except one error that has also been subsequently rectified, we see no merit in this application which is accordingly dismissed with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman