

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

T.A.NO. 322/92 : Date of order: 29.7.93

Parmeshwari Sahai : Applicant.

Mr. B.M.Singh Proxy counsel for Mr.J.K.Kaushik-  
counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.

Mr. Manish Bhandari : Counsel for the respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, JUDL MEMBER

HON'BLE MR. O.P.SHARMA, ADMINISTRATIVE MEMBER

PER HON'BLE MR. O.P.SHARMA, ADMINISTRATIVE MEMBER

The plaintiff ( hereinafter referred to as the applicant) had filed a Suit in the Court of learned Munsif, Ajmer City, (East) Ajmer on 30.6.1983, praying that the order passed on 11.7.83 in his case reverting him from the post of head clerk to that of senior clerk may be quashed. The Suit was transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 and registered as T.A.NO. 322/92 ( old no. 1212/86).

2. We have heard the applicant, his counsel and departmental representative Mr. R.K. Updhyaya, Head Clerk. We also heard Mr. Manish Bhandari, counsel for the respondents during part of the hearing.

3. The applicant was appointed in the Railways in 1945 and therefore, he got promotions to various higher posts. In the year 1975 he opted for transfer from Ajmer Division to the office of Dy. Controller of Stores, Western Railway, Ajmer. Therefore, till his retirement he continued to work in the Office of Dy. C.O.S. Ajmer. He came to the office of Dy. C.O.S. by exercising an option to be posted in place of one Shri P.C.Tandon officiating senior clerk. After the applicant came to the Office of Dy. C.O.S. as senior clerk he was promoted as Head Clerk by order dated 20.9.1982. However, on 11.7.83 he was reverted from the post of Head Clerk and was re-appointed as senior clerk. He retired on superannuation on 31.10.84, from the post of senior clerk.

4. The applicant's case is that he is a confirmed senior clerk w.e.f. 4.4.61 as seen from order dated 4.8.78. His reversion from the post of head clerk was on the ground that he did not pass the suitability test for the post of senior clerk. According to the applicant, when he had already been confirmed as a senior clerk, even though in the Ajmer Division and not in the office of Dy.C.O.S. the respondents were not justified in calling upon him to pass the suitability test for the post of senior clerk. He has also <sup>drawn</sup> ~~produced~~

our attention to Annexure.8 which is order dated 9th June, 1983 issued by the office of the Dy. C.O.S. Ajmer, whereby the applicant was exempted from appearing in the suitability test for senior clerks and ward keepers. His name appears in the said order at serial no.97. Therefore, according to him there was no question of his being asked to appear the suitability test either for senior clerk or for ward keeper. His promotion as Head Clerk was nodoubt on ad hoc basis, but since there was no ground for his reversion other than that he had not passed the suitability test for the lower post, the reversion was unjustified.

5. The respondents in their reply have stated that the applicant's reversion was ordered on the ground that he had not pass the suitability test for senior clerk after coming to the office of Dy. C.O.S. Ajmer. The departmental representative explained that since the applicant had come over to the office of the Dy. C.O.S. Ajmer, in place of one Shri P.C.Tandon, the service conditions attaching to the post earlier held by Shri P.C. Tandon would be applicable to the applicant also. Shri P.C.Tandon was an officiating senior clerk and had opted for the Ministerial side. Therefore, the applicant would be placed exactly in the same

position as Shri Tandon, and would, therefore, be required to pass the suitability test as Shri P.C.Tandon would have been required to do so if he had continued in the office of Dy.C.O.S.

6. We have carefully considered the ~~opposite~~ rival contentions. Admittedly the applicant is confirmed as a senior clerk since 1961 by an order passed in 1978. If he comes in the place of another person who was an officiating senior clerk, the applicant's confirmation as senior clerk cannot go away. Moreover, the office of the Dy. C.O.S. vide order dated 9th June, 1983 Annexure.8 had specifically exempted the applicant from appearing in the suitability test for senior clerks or ward keepers. Therefore, he could not be asked to take another test and if he did not take the test which he was called upon to take, he could not be reverted.

6. In the circumstances, we hold that the order of reversion dated 11.7.83 is bad in law. It is hereby quashed. The applicant shall be treated as continuing on the post of Head Clerk from the date of his original appointment and

till his superannuation on 31.10.84. He shall also get all consequential benefits such as arrears of pay and pensionary benefits. The respondent are directed to grant all these benefits to the applicant within a period of 4 months from the date of receipt of this order.

(.O.P.SHARMA)  
Adm.Member

GK  
GOPAL KRISHNA  
Judl.Member

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Anil