

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 21.9.94.

OA 688/92
(OA 87/88)

CHINTAMANI SHARMA ... APPLICANT.

V/s.

UNION OF INDIA & ORS. ... RESPONDENTS..

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.
HON'BLE MISS USHA SEN, ADMINISTRATIVE MEMBER.

For the Applicant ... SHRI J.K. KAUSHIK.

For Respondents No.1 to 3 ... NCNE.

For the Respondent No.4 ... SHRI MANISH BHANDARI.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Heard learned counsel for the parties. The applicant has challenged the order of reversion Annexure A-4 dated 19/25.11.87. The applicant was holding the post of Assistant Head Signaller at the time of passing of the impugned order. It will not be out of place here to mention that vide Annexure A-3 dated 4/15.9.87 the applicant and respondent No.4 namely Hemchand Nagar passed the examination of Senior Signaller/ Assistant Head Signaller on 15.9.87 and the name of the applicant finds place in the merit list at Sl.No.3, whereas the name of respondent No.4 finds place in the merit list at Sl.No.4. Posting orders were also issued on 2.1.86 vide Annexure A-1 and in the said order both have been shown as Telegraphic Signaller. The name of the applicant finds place at Sl.No.6 and the name of respondent No.4 at Sl.No.7. that Directions have been given in the said order, the upgradation of Sl.No.6 will come into force on 1.6.85, whereas the upgradation of Sl.No.7 i.e. Hemchand Nagar will not be from the retrospective date but he will get the benefit on completion of 20 days continuous working. Thus, in this order also it is clear that the applicant was senior.

2. The respondents have come with a case that Shri Khem Chand Nagar, who was junior to the applicant, opted for Wireless Unit in pursuance of the order dated 10.9.85 and as such the applicant cannot make any grievance because that unit is a separate unit. This fact is not borne out from the record made available to the Tribunal. Mr. Bhandari could not show any document to substantiate the submissions he is making. It was also pointed out ^{as to} why the order dated 2.1.86 was passed, in which the name of Shri Khemchand Nagar finds place as the Telegraphic Signaller and not an employee of the Wireless Unit. The submissions made in the reply does not support the case of the respondents that Shri Khemchand Nagar was working in another unit. We are not satisfied with the reply submitted. Mr. Bhandari submits that there is a letter of option. ^{wa} There is no letter of option at all. It is not a letter of option given by Shri Khemchand Nagar but it is an order inviting options. There must be an order of the option so given and there must be an implementation of the option and the documents are in the possession of the respondents and the respondents have not produced the same before the Tribunal for one reason or the other best known to them. If the respondents wanted to make out a case, they should have produced the documents before the Tribunal. Thus, withholding of the record leads the Tribunal to draw the adverse inference against the respondents.

3. In the result, the OA is accepted and the order of reversion dated 19/25.11.87 (Annexure A-4) is set aside. The applicant will be entitled for all consequential benefits.

U.S.
(USHA SEN)
MEMBER (A)

D.L. Mehta
(D.L. MEHTA)
VICE CHAIRMAN