

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.70/94

Date of order: 15/12/98

1. Naresh Chandra Sharma, S/o Shri Suraj Bhan Sharma, R/o C/o Shri R.C. Sharma, Near Moti Singh's Kothi, Mala Road, Kota Junction, presently posted as Deputy Chief Controller in the O/o DRM, W.Rly, Kota.

...Applicant.

Vs.

1. The Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. The Divisional Rly Manager, Western Raily, Kota Divn, Kota.
3. The Senior Divisional Operating Manager, W.Rly, Kota.

...Respondents.

Mr.Virendra Lodha) - Counsel for applicant.

Mr.Anurag Kulshresta)

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to assign him the seniority on the post of ATNL w.e.f. 25.2.85 treating him regular appointee and to consider him for promotion on the post of Dy.Chief Controller w.e.f. 27.4.89 and further promotion on the post of Chief Train Controller.

2. The case of the applicant in brief as stated by him is that he was promoted to officiate as ATNL vide order dated 25.2.85. Thereafter a decision was taken to hold selection for preparing panel for promotion on the post of Section Controller. The applicant ~~was~~ participated in the process of selection and his name was placed at Sl.No.2 in the panel. It is stated that the applicant was promoted on the post of ATNL vide order dated 15.12.89 in the pay scale Rs.1400-2600(RP). Meanwhile five persons were recruited by way of direct recruitment on the post of ATNL/Section Controller vide order dated 24.4.87. It is stated that the direct recruits were inducted in the service later but were promoted earlier than the applicant and were also given higher grade of Rs.2000-3200. The applicant filed representation but he was given seniority by treating him as regularly selected ATNL w.e.f. 31.10.90. It is stated that the representation of the applicant assigning him seniority w.e.f. 25.2.85 was decided and communicated to him vide communication dated 7.2.94 which is not legally sustainable in law. The applicant, therefore, makes a prayer in this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that the applicant was put to officiate as ATNL in the pay scale of 470-750(R) purely on ad hoc

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basis to manage the work vide order dated 25.2.85. Thereafter, notification was issued for selection of 75% rankers quota. The applicant was duly selected and was posted as ATNL alongwith others in the pay scale of Rs.1400-2600(RP). It is also stated that the direct recruits were posted vide order dated 24.4.87 against 25% quota and thereafter they were promoted as Dy.TNL in the pay scale Rs.2000-3200 vide order dated 27.4.89. It is stated that the applicant was regularised w.e.f.31.10.90 vide order dated 22.1.93, therefore, he is not entitled to seniority w.e.f. 25.2.85 on the post of ATNL and his representation was rightly rejected.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The order of promotion of the applicant on the post of ATNL issued on 25.2.85 is purely an ad hoc arrangement to manage the work in Controller office. In the order, it has been made very clear that the promotee will have no claim or right for the posting as ATNL. The promotion of the applicant was only regularised after selection w.e.f. 31.10.90.

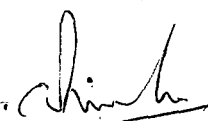
6. It is settled law that persons put to officiate on ad hoc basis cannot claim seniority from the date of their officiation on ad hoc basis. Ad hoc appointment without proper selection cannot be counted for seniority. In Director General ESIC & Anr. Vs. Trilok Chand & Ors, SLP No.7393-96/91 decided on 10.12.93, Hon'ble the Supreme Court held that ad hoc appointment without proper selection cannot be counted for seniority.

7. In Devendra Pathria & Ors. Vs. UOI & Ors, 1998 SCC(L&S) 1331, the applicants were appointed on ad hoc basis as Enquiry-cum-Reservation Clerk from 1978 to 1982. It was held that the applicants cannot be treated senior to those who in the mean time had been appointed according to the prescribed procedure.

7. In Dr. Anuradha Bodi & Ors Vs. Municipal Corporation of Delhi & Ors, 1998 SCC(L&S) 1351, Hon'ble Supreme Court following Maharashtra Direct Recruit case held that the applicants are not entitled to regularisation from the date of their initial appointment on ad hoc basis. In this case applicants were appointed as General Duty Officer Grade-III from 1982 to 1985 on ad hoc basis and on being selected by UPSC appointed on regular basis w.e.f. 27.6.91 and Hon'ble Supreme Court of India held in this case that applicants are not entitled to regularisation from the date of their initial appointments on ad hoc basis.

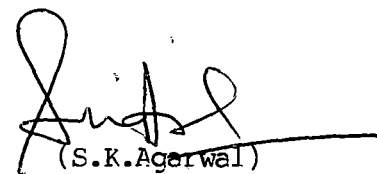
8. In view of the above legal proposition and facts and circumstances of the case, we are of the considered opinion that there is no merit in this case and the applicant is not entitled to any relief sought for.

9. We, therefore, dismiss this O.A with no order as to costs.



(N.P. Newani)

Member (A).



(S.K. Agarwal)

Member (J).