

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.349/94

Date of order: 12.10.95

Kishan Gopal Sharma : Applicant

Vs.

Union of India & Ors. : Respondents

None present for the applicant.

Mr.M.Rafiq : Counsel for respondents.

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.)

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Kishan Gopal Sharma has prayed that the respondents may be ordered to fix the applicant's seniority on the post of Chief Inspector of Works at a place between ^{S/}Shri J.F.Bhatia and Rajendra Kumar Shinde in Annx.A-3, with all consequential benefits. He has further prayed that the applicant should be properly compensated for mental tension and torture caused to him for not properly fixing his seniority.

2. The applicant's case, who is at present posted as Inspector of Works (IOW) (Construction), Ajmer, is that he was appointed as an Apprentice in the Western Railway after completion of the prescribed training and passing the prescribed examination w.e.f. 3.10.1958. Without his consent he was transferred to ENC Brahmaputra Bridge Project in NEF Railway, Pandu in 1960 without payment of any deputation allowance. While working on the said project, he was appointed as Asstt. Inspector of Works (AIOW) scale Rs.205-280 on the basis of his selection. However, on 4.5.1965, the applicant was transferred back to W.Ply, in the interest of administration and posted as Works Mistry Scale Rs. 130-212. There-after he was again promoted on the post of AIOW on 20.6.1969 and thereafter as IOW w.e.f. 11.3.1972. The applicant was again reverted from the post of IOW to that of

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Works Mistry on 27.4.1972. There-after, however, he was again promoted as ALOW on 5.9.'72 and as IOW on 2.7.1974. Thereafter again he was reverted as Works Mistry in Oct. 1974. Against this reversion he filed a Civil Suit. Thereafter, the error in reverting the applicant was rectified by the administration. By order dated 26.4.1980 (Annx.A1) and the request of the applicant not to revert him was accepted. His seniority was fixed below Shri P.P.Padive and above Shri P.M.John in the seniority list of ALOW scale Rs.205-280. Thereupon, the applicant withdrew the Civil Suit. In view of the fact that his transfer to NEF Railway was in the interest of administration he could be considered to be continuously functioning as ALOW (from the date of his first promotion as ALOW in NEF Railway.)

3. However, according to the applicant, in the seniority list circulated vide letter dated 14.12.93 by the DPM, W.Ply, Pajkot Division (Annx.A3) he has been shown at Sl.No.7 and his date of officiation on the post of IOW on regular basis has been shown as 18.8.1990 whereas actually he has been functioning on the said post from 22.1.1962. Therefore the applicant's name in the seniority list of IOW Grade-I should be between S/Shri J.R. Bhatia and R.K.Shinde. Being aggrieved by the fixation in the seniority as mentioned above, the applicant filed an O.A. before the Tribunal, No.280/92, which was decided by the Tribunal by order dated 9.11.1993 (Annx.A4) whereby a direction was given to the respondents to consider the case of the applicant according to rules. A liberty was given to the applicant that if he is still aggrieved, he can approach the Tribunal by filing a fresh O.A. However, eventually in response to the Tribunal's order, the applicant received a seniority list with letter dated 14.12.93 (Annx.A3). The applicant represented vide letter dated 12.1.94 (Annx.A7) that the seniority list is incorrect. He received another letter dated

9

7.2.94 (Annx.A8) from the office of the DFM, Rajkot Division but the correct seniority was not assigned to him. He is aggrieved by the seniority list circulated vide Annx.A3 dated 14.12.93 and the order Annx.A8 dated 7.2.1994 by which his representation regarding the assignment of correct seniority has been rejected. His case in substance is that since he was appointed on the post of AIOW from 22.1.1962, assignment of seniority to him on the post of IOW in the Western Railway ignoring the said position is unjustified.

4. The respondents in their reply have stated that the applicant was correctly assigned seniority position as IOW vide notification dated 10.9.1990 (Annx.F9), below Shri J.P.Patel who also passed the selection for regular promotion as IOW Grade-III alongwith the applicant and who is senior to the applicant as Works Mistry. The applicant's promotion in NEF Railway was on ad hoc basis and the said promotion cannot be taken into account for the purpose of seniority position at Rajkot Division in whose cadre the applicant was maintaining lien as Works Mistry. They have added that the post of IOW is a selection post and on the basis of passing the selection test he was included in the panel of IOW Grade-III vide notification dated 22.8.90 (Annx.F8) and was assigned seniority at Sl.No.8, as referred to above. As regards Shri J.P.Bhatia, he passed the selection test for the post of IOW Gr.I and was empanelled vide notification dated 30.1.1987. As regards Shri R.K.Shinde, he passed the selection test for IOW Gr.I and was placed in the panel of IOW Gr.I vide letter dated 6.3.1984. Thus S/Shri J.P.Bhatia and R.K.Shinde, had passed selection for the post of IOW Gr.I much earlier than the applicant. Therefore, the applicant could not be assigned seniority between S/Shri J.P. Bhatia and R.K.Shinde.

5. None is present on behalf of the applicant. We have heard


9

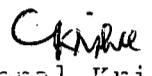
the learned counsel for the respondents and have gone through the records. The first point to be noted is that while the applicant seeks to be assigned seniority above Shri P.K.Shinde, he has not made him a respondent in this application. Therefore his claim is liable to be rejected on this ground alone. However, on merits also, we find that there is no substance in the applicant's claim. Shri Shinde had passed the selection test for the post of IOW Gr.I and was included in the panel notified vide communication dated 6.3.84, much before the applicant was included in the panel for promotion to the post of IOW Gr.III in September 1990. The applicant's immediate senior Shri J.M.Patel has not yet come in the zone of eligibility for promotion to the post of IOW Gr.II even. Naturally therefore, the applicant cannot claim to be promoted to the post of IOW Gr.I. Therefore, a fortiori the applicant is not entitled to be placed above Shri P.K.Shinde, who was included in the panel of IOW Gr.I way back in 1984. The applicant has claimed seniority on the post of IOW on the basis of his posting or promotion as AIOW in NEF Railway way back in 1962 but he has^d been reverted to the lower post of Works Mistry on several subsequent occasions after promotions as AIOW/IOW and he has not shown that after repromotion he was assigned seniority as per his promotion in NEF Railway in 1962. His reversion and grant of lower seniority are now all very old matters and no relief has been claimed, nor can it be granted, against such reversions. The position of seniority assigned to the applicant as Works Mistry in Pajkot Division vide seniority lists published on 7.8.1962 (Annx.P1), on 7.3.1967 (Annx.P2), on 11.8.1975 (Annx.P3) and on 8.9.1987 (Annx.P4) has become final and therefore at this late stage he cannot claim seniority on the basis of his promotion as AIOW in 1962. Therefore, for all the above reasons, we find no merit in this

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application. The O.A is therefore dismissed with no order as to costs.


(O.P. Sharma)
Member(A).


(Gopal Krishna)
Vice Chairman.