

Ann A/I

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

T.A. NO. 328/92

Date of order
20.4.93

CHIMAN SINGH

...

APPLICANT.

MR. D.P.GARG

...

COUNSEL FOR THE APPLICANT.

VERSUS

U.O.I. & ORS.

...

RESPONDENTS.

Mr. V.D. BHARGAVA

...

COUNSEL FOR THE RESPONDENT

.....

CORAM :

HON'BLE MR. JUSTICE DINKER LAL MEHTA, VICE CHAIRMAN
HON'BLE MR. B.B.MAHADAN, ADMINISTRATIVE MEMBER.

.....

PER HON'BLE MR. B.B.MAHADAN :-

Chiman Singh had filed civil suit in the Court of Munsif and Judicial Magistrate, Ajmer City (East), Ajmer, praying for declaration that the order of the General Manager, Western Railway dated 25.11.1973 by which seniority was assigned to him as Chief Travelling Inspector (C.T.I.) w.e.f. 1965 instead of 12.12.58, may be declared illegal and void and should not be given effect to and he should be allowed the promotion as D.C.T.I. Scale Rs. 550-750/- on the basis of his seniority as C.T.I. w.e.f. 12.12.58. The suit was transferred to the Tribunal under Section 29 of the Administrative Tribunals Act and registered as T.A.

2. We have heard the counsel for the parties.

3. The applicant was allowed benefit of seniority as C.T.I. Scale Rs. 425-640/- w.e.f. 10.12.58 vide order of Western Railway Headquarters dated 20.4.77, copy of which has been filed by the applicant alongwith

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Advocate

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his affidavit filed before the Tribunal in April, 1987. His position was also accordingly shown at S.No.9 in the seniority list of C.T.I.s. grade Rs. 550-750/- circulated on 5.9.77, copy enclosed with the affidavit. However, with the impugned order dated 25.11.78 from General Manager, Western Railway, it was decided that he should be given seniority again from 1965 instead of 18.12.58. No notice was admittedly issued to the applicant before issue of the impugned order dated 25.11.78. The learned counsel for the respondents has stated that earlier by the Railway Board's order dated 7.12.72, the applicant was given seniority from 1965 and the General Manager was not competent to revise the order of the Railway Board. The applicant has stated in para 8 of his affidavit that he had subsequently after the receipt of Railway Board's order dated 7.12.1972 come to know that seniority had in fact occurred on 12.12.58 and as he was the most eligible C.T. employee, he was entitled to promotion from that date and he accordingly made his representation, which was accepted by the General Manager. The representation was thus not against the order of the Railway Board but was fresh representation on the basis of the facts which came to his notice subsequently. In any case, if modification of the order of the Railway Board was involved, it was for the General Manager to obtain the orders of the Board. So far the applicant is concerned, he had been accorded seniority from 18.12.78 by order of the General Manager, who was the competent authority to fix his seniority. An order refixing his seniority which adversely affected him could not be passed without issue of notice to him. Since no notice was issued to him, the order is not legally sustainable on this ground alone.

4. In view of the above, we allow this T. A. and set aside the order of the General Manager, Western Railway dated 25.11.78 and restore the earlier seniority of the applicant fixed by the order dated 20.4.77. If the respondents wish to make any change in his seniority, they will

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Advocate

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have to proceed according to law, by giving a notice to the applicant. Parties to bear their own costs.

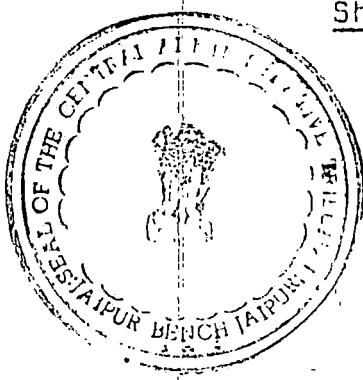
(B.B.MAHAJAN)
ADM. MEMBER

(D.L.MEHTA)
VICE CHAIRMAN

Shashi/

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John B. S. J.
Section Officer (Judicial)
Central Administrative Tribunal
JAIPUR BENCH, JAIPUR



Attested True Copy
S. S.
Advocate