

Date of Decision: 27.3.96.

OA 539/94

Raghvendra

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPAL KISHNIA, VICE CHAIRMAN

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

For the Applicant

... None

For the Respondents

... Mr. Manish Bhandari

ORDER

PER HON'BLE MR. GOPAL KISHNIA, VICE CHAIRMAN


Applicant, Raghvendra, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, challenging the impugned order dated 10.5.94, at Ann.A-1, by which he was appointed as a Boxboy in the scale Ps.750-940 (PP) with merit No.38. He has sought a direction to the respondents to determine his seniority on the basis of his initial date of appointment i.e. 20.6.78 and to grant temporary status from 1.8.79 as a Coalman. He has also prayed for his absorption as a Coalman from the date his juniors were so absorbed as also for consideration for further promotion to the post of Fireman Grade-II and then Fireman Grade-I on the basis of his seniority position.

2. The counsel for the applicant pleads no instructions. The applicant is not present in person. We have heard the learned counsel for the respondents and have gone through the records of the case carefully.

3. The contentions of the applicant are that he was appointed as a Class-IV employee vide Ann.A-2 w.e.f. 20.6.78. Temporary status was granted to him from 1.8.79 and he was given regular pay scale of a Group-D post. He has stated that the action of the respondents in denying regular appointment to him on a Group-D post permanently is bad in law. He has claimed the benefits of regular pay scale and continuation in the post of Coalman, for which he was selected and appointed. The main contention of the applicant is that being senior to persons appointed as Coalmen, he cannot be discriminated by posting as a Boxboy and the order posting him as a Boxboy, as stated by him, has been passed in a capricious manner and the same is violative of the provisions contained in Article 16 of the Constitution.

4. On the contrary, the respondents have stated that the applicant's claim for regularisation from 1981 is barred by limitation. In fact the applicant has been extended the benefit of regularisation w.e.f. 31.3.89. It is also categorically stated by the respondents in their reply that the applicant's name initially appeared at Sl.No.37 in the seniority list and now his seniority position has been revised and he has been assigned seniority at Sl.No.8A, between Shri Erijesh Chand and Shri Kalyan Sahai, as a consequence of which his name has been kept at Sl.No.9A in the panel prepared on 20.3.89 for regularisation vide Ann.F-1. The learned counsel for the respondents pointed out during the course of arguments that the post of Coalman now does not exist and if the applicant wants to continue on the post of Coalman, he will remain a casual labour. The applicant has already been appointed as a Boxboy on a regular basis and due seniority has already been assigned to him. His services have already been regularised w.e.f. 31.3.89. The grievance of the applicant has been substantially redressed.

5. In the circumstances, we are of the view that this OA does not survive for consideration. It is, therefore, dismissed. No order as to costs.

  
(O.P. SHARMA)  
MEMBER (A)

  
(GOPAL KRISHNA)  
VICE CHAIRMAN

VK