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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 12.9.96

OA 6/96

D.S. Dube, TICP in the office of DCTI, Western Railway, Jaipur.

... Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, DFM Office, Power House Road, Jaipur.
3. Shri H.L. Chholak, CTI, Western Railway, Jaipur through DFM, Western Railway, Jaipur.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHAFRAZ, ADMINISTRATIVE MEMBER

For the Applicant ... Mr. P.V. Calla

For Respondents No.1 and 2 ... Mr. Manish Bhandari

For Respondent No.3 ... None

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

This application by the applicant, D.S. Dube, under Section 19 of the Administrative Tribunals Act, 1985, is directed against order dated 19.10.95 and the Notification dated 5.10.95, whereby the process of selection to the post of Chief Ticket Inspector (for short, CTI) scale Rs.2000-3200 has been initiated.

2. We have heard the learned counsel for the parties and have carefully gone through the records of the case. Both the counsel have agreed to this matter being disposed of at the stage of admission.

3. The applicant's case is that he entered in the service of the Railways through the Railway Recruitment Board as a Ticket Collector scale Rs.360-400 on 31.12.69. While he was serving as Ticket Collector, a seniority list of Ticket Collectors working in the division was circulated, in which the applicant's name figured at Sl.No.129, whereas the name of respondent No.3 figured at Sl.No.139. Having been appointed in the year 1969 the applicant is senior to respondent No.3 in the base grade seniority as respondent No.3 was appointed in the cadre of Ticket Collector in the year 1974. The ~~CKR&N~~ seniority list dated 20.12.82 is marked as Ann.A-3. Thereafter, the

applicant was promoted to the post of Travelling Ticket Examiner (for short, TTE). A seniority list of Group-C employees was issued vide memo dated 16.7.87, wherein the applicant was shown at Sl.No.89 as TTE scale Rs.1200-2040 and the name of respondent No.3 was shown at Sl.No.98. As such, in the cadre of TTE scale Rs.330-560 (Rs.1200-2040) the applicant was senior to respondent No.3. The main thrust of the arguments of the learned counsel for the applicant is that respondent No.3, who was appointed later than the applicant and was also promoted to the next higher grade later than the applicant, cannot be assigned higher seniority than the applicant on the basis of accelerated promotion. It has also been contended that reservation cannot be applied in cases of upgradation. It is also stated by the applicant that he has represented to the railway administration for complying with the decision delivered by the Hon'ble Apex Court and has prayed therein that before initiating any process for selection to the post of CTI scale Rs.2000-3200, the seniority in the lower category be revised as per the judgement of the Hon'ble Supreme Court. The applicant's prayer is that the respondents be directed not to accord any appointment/promotion to the post of CTI scale Rs.2000-3200 to the members of the reserved category in excess of the percentage prescribed for them. It is also contended that the ad hoc appointment accorded to respondent No.3 to the post of CTI scale Rs.2000-3200 may be declared illegal.

4. On the contrary, the main contention of the respondents No.1 and 2 is that respondent No.3 had become senior to the applicant on his promotion in the pay scale Rs.425-640 earlier and accordingly he was assigned higher seniority due to his promotion in the year 1984 by upgradation. The learned counsel for the applicant has countered this averment of respondents No.1 and 2 by stating that the promotion of respondent No.3 to the scale Rs.425-640 was challenged by the All India Shoshit Karamchari Sangh, in TA 655/86, decided on 12.8.92, vide Ann.A-8.

5. The grievance of the applicant is with regard to fixation of seniority in the promoted cadre and that candidates belonging to reserved category should not have the benefit of accelerated seniority even while considering the question of promotion to higher post. It is reiterated that the prayer of the applicant is that no promotion to the higher post should be accorded to the members of the reserved category in excess of the percentage already prescribed.

6. The controversies raised in this application have already been settled by the Hon'ble Supreme Court in several cases and also in the recent decision in the case of Ajit Singh Januja and others v. State of Punjab and

Chennai

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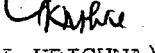
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others, reported in JT 1996 (2) SC 727.

7. In view of the directions given by the Hon'ble Supreme Court, this application is disposed of, at the stage of admission, with a direction to respondents No.1 and 2 to refix the seniority/promotion/reversion and take necessary suitable consequential steps in accordance with law laid down by the Hon'ble Supreme Court in the case of Ajit Singh Januja (supra) within a period of four months from the date of receipt of a copy of this order. It is further clarified that it will be open to the applicant to make representation to the authority concerned pointing out the relevant decision of the Hon'ble Supreme Court laying down the law on this subject and the effect of the same on his seniority. If such representation is made within a period of one month from today, the same shall be taken into consideration by the authority concerned while complying with the directions contained hereinabove.

8. As per the aforesaid observations and directions, this application is disposed of finally. The Registry is directed to send a copy of this order to all the respondents immediately.

  
(O.P. SHARMA)

ADMINISTRATIVE MEMBER

  
(GOPAL KRISHNA)

VICE CHAIRMAN

VK